

TABLE OF CONTENTS

CHAPTER 20

NUISANCES

Articles:

I. In General

- Sec. 20-1 Air pollution nuisances prohibited
- Sec. 20-2 Abatement of unsanitary or dangerous premises
- Sec. 20-3 Abatement by City in cases of emergency
- Sec. 20-4 Abatement of nuisances when property owner absent
- Sec. 20-5 Abatement of nuisances by persons other than City
- Sec. 20-6 Provisions to be cumulative

II. Noise

- Sec. 20-21 Definitions
- Sec. 20-22 Reserved
- Sec. 20-23 Maximum permissible noise levels
- Sec. 20-24 Classification and measurement of noise
- Sec. 20-25 Exceptions
- Sec. 20-26 Extraterritorial noise source
- Sec. 20-27 Variances
- Sec. 20-28 Motor vehicle maximum sound levels
- Sec. 20-29 Violations and penalties

III. Exterior Property Maintenance

- Sec. 20-30 Nuisance declared and prohibited
- Sec. 20-31 Yard maintenance
- Sec. 20-32 Fence and wall maintenance
- Sec. 20-33 Abatement
- Sec. 20-34 Violations and penalties

IV. Weeds, Brush Piles and Rubbish

- Sec. 20-41 Definitions
- Sec. 20-42 Weeds and rubbish nuisances prohibited
- Sec. 20-42.5 Outdoor furniture restriction; defenses
- Sec. 20-42.6 Outdoor storage of materials
- Sec. 20-43 Wildlife habitat, certified natural areas and compost exceptions
- Sec. 20-44 Notice of violation; removal authority and procedure; assessment lien on the property
- Sec. 20-45 Violations and penalties

V. Dirt, Debris and Construction Waste

- Sec. 20-61 Definitions
- Sec. 20-62 Depositing on streets prohibited
- Sec. 20-63 Removal of all debris required
- Sec. 20-64 Responsibility for such nuisance
- Sec. 20-65 Removal by City
- Sec. 20-66 Penalty

VI. Junked, Wrecked, Abandoned, Inoperable Property

Division 1 Generally
Reserved

Division 2 Inoperable Motor Vehicles

- Sec. 20-91 Definitions
- Sec. 20-92 Unsheltered storage prohibited
- Sec. 20-93 Exceptions
- Sec. 20-94 Sheltered or exempt vehicles must comply with other nuisance provisions
- Sec. 20-95 Abatement; removal

Sec. 20-96 Violations and penalties

VII. Snow Obstructions

Sec. 20-100 Nuisance declared and prohibited; penalty

Sec. 20-101 Removal by City; lien

Sec. 20-102 Removal of snow and ice from sidewalks required; lien

Sec. 20-103 Violations and penalties

VIII. Parking

Sec. 20-104 Definitions

Sec. 20-105 Parking and storage of motor vehicles and recreational vehicles; nuisance declared and prohibited

Sec. 20-106 Right of entry granted

Sec. 20-107 Parking space obstructions

Sec. 20-108 Violations and penalties

IX. Abatement of Public Nuisances

Sec. 20-110 Legislative purpose

Sec. 20-111 Definitions

Sec. 20-112 Nature of remedies

Sec. 20-113 In general

Sec. 20-114 Procedures in general

Sec. 20-115 Posting of notice of commencement of public nuisance actions

Sec. 20-116 Effect of abatement efforts; defense to action

Sec. 20-117 Abatement orders

Sec. 20-118 Motion to vacate or modify temporary abatement orders

Sec. 20-119 Civil judgment

Sec. 20-120 Supplementary remedies for public nuisances

Sec. 20-121 Stipulated alternative remedies

Sec. 20-122 Remedies under other laws unaffected

Sec. 20-123 Limitation of actions

Sec. 20-124 Effect of property conveyance

Sec. 20-125 Severability

**ARTICLE I.
IN GENERAL**

Sec. 20-1. Air pollution nuisances prohibited.

(a) The emission or escape into the open air from any source or sources of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors or any other substances or combination of substances in such manner or in such amounts as to endanger or tend to endanger the health, comfort, safety or welfare of the public or to cause unreasonable injury or damage to property or to interfere with the comfortable enjoyment of property or normal conduct of business is hereby found and declared to be a public nuisance. It is unlawful for any person to cause, permit or maintain any such public nuisance within the City.

(b) No person shall cause or allow the emission of smoke exceeding twenty-percent opacity from any flue or chimney, except for a single fifteen-minute period for cold start-up. Any emission in excess hereof is hereby declared to be a nuisance and is prohibited.

(c) After October 1, 1988, no person shall cause or allow, for the purpose of residential or commercial space heating, the burning of coal in a solid fuel-burning appliance, unless that appliance is designed to burn coal, and unless it is the sole source of heat for the building. No solid fuel-burning appliance shall be considered to be the sole source of heat if the building is equipped with a permanently installed furnace or heating system that is designed to use natural gas, fuel oil, electricity or propane, whether connected or disconnected from its energy source.

(d) Except as is provided in Subsection (c) hereof, no person shall cause or allow the burning of any solid fuel in a solid fuel-burning appliance other than clean, dry, untreated wood or wood products, or other solid fuel products specifically manufactured for the purpose of space heating.
(Ord. No. 184, 1986, § 4, 11-18-86; Ord. No. 180, 1987, § 2, 12-1-87; Ord. No. 89, 1994, § 1, 6-21-94; Ord. No. 130, 1996, 11-5-96; Ord. No. 188, 2002, 1-7-03)

Sec. 20-2. Abatement of unsanitary or dangerous premises.

(a) If either the City Manager, the City Engineer, the Director of Building and Zoning or the Fire Chief determines that any premises within the City are unsanitary, as determined by the Larimer County Department of Health and Environment, or dangerous to the life or property of persons or constitute a fire hazard, a written notice of such condition shall be given by the City to the owner, agent or occupant of the property ordering the premises to be put in proper condition within such period as is set out in the notice and order. Such period shall not be less than twenty-four (24) hours.

(b) If the owner, agent or occupant of the premises shall fail or refuse to comply with the order of any of the officers within the time given in the order, then the matter of the failure or refusal to comply with the order shall be heard before the next meeting of the City Council without further notice to the owner, agent or occupant of the premises. At the meeting, the owner, agent or occupant of the premises or any other person interested may appear and be heard.

(c) After the hearing, the City Council shall make such order concerning remedying the condition complained of as may be deemed necessary and may declare the premises to be a nuisance and cause the premises to be remedied, repaired, abated or evacuated and shall assess the expense against the lot or premises upon which the condition or nuisance may be found as provided by law.
(Code 1972, § 79-1; Ord. No. 89, 1994, § 1, 6-21-94; Ord. No. 222, 1998, § 3, 12-15-98; Ord. No. 130, 2002, § 11, 9-17-02; Ord. No. 144, 2003, 11-18-03)

Sec. 20-3. Abatement by City in cases of emergency.

Nothing herein shall be deemed to limit the power of the City Manager, City Engineer, Director of Building and Zoning or Fire Chief, in case of an emergency for the preservation of the public health or safety, to summarily remedy, change, repair, abate or order the evacuation of any dangerous or unhealthy condition found to exist without any notice to any person.

(Code 1972, § 79-2; Ord. No. 89, 1994, § 1, 6-21-94; Ord. No. 222, 1998, § 3, 12-15-98; Ord. No. 130, 2002, § 11, 9-17-02; Ord. No. 144, 2003, 11-18-03)

Sec. 20-4. Abatement of nuisances when property owner absent.

If the lot or premises is not occupied and the owner is not found within the City when the notice is about to be given, the City Council may have the premises cleaned, changed, repaired or the nuisance abated without serving personal notice of any kind upon the owner or agent and may assess the costs against the lot or premises.

(Code 1972, § 79-3; Ord. No. 89, 1994, § 1, 6-21-94)

Sec. 20-5. Abatement of nuisances by persons other than City.

Any person ordered to clean, repair, change or make safe any property or abate any nuisance may do so at such person's own expense, if suitable arrangements are made with the City Engineer, Director of Building and Zoning or Fire Chief, prior to the time when the City shall start carrying out any order made under this Article.

(Code 1972, § 79-4; Ord. No. 89, 1994, § 1, 6-21-94; Ord. No. 222, 1998, § 3, 12-15-98; Ord. No. 130, 2002, § 11, 9-17-02)

Sec. 20-6. Provisions to be cumulative.

The provisions of §§ 20-21 through 20-45 are cumulative to all other provisions relating to unsanitary and dangerous conditions and to nuisances in this Code.

(Code 1972, § 79-5; Ord. No. 89, 1994, § 1, 6-21-94)

Secs. 20-7—20-20. Reserved.

**ARTICLE II.
NOISE**

Sec. 20-21. Definitions.

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

Ambient sound level shall mean the total sound pressure level in the area of interest including the noise source of interest.

A-weighting shall mean the electronic filtering in sound level meters that models human hearing frequency sensitivity.

Background sound level shall mean the total sound pressure level in the area of interest excluding the noise source of interest.

Code Compliance Inspector shall mean an employee of the City trained in the measurement of sound and empowered to issue a summons for violations of § 20-23 and to issue variances pursuant to § 20-27.

Construction shall mean any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

dB(A) shall mean the A-weighted unit of sound pressure level.

Decibel [dB] shall mean the unit of measurement for sound pressure level at a specified location.

Emergency work shall mean any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

Impulsive sound shall mean a sound having a duration of less than one (1) second with an abrupt onset and rapid decay.

Motor vehicle shall mean any vehicle that is propelled or drawn on land by an engine or motor.

Muffler shall mean a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.

Multi-use property shall mean any distinct parcel of land that is used for more than one (1) category of activity. Examples include, but are not limited to:

- (1) A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
- (2) A commercial building which has a residential use located above, behind, below or adjacent to the commercial use.

Noise disturbance shall mean any sound originating from or received within the City limits that (a) endangers the safety or health of any person, (b) disturbs a reasonable person of normal sensitivities, or (c) endangers personal or real property.

Person shall mean any individual, corporation, company, association, society, firm, partnership, joint stock company, the City or any political subdivision, agency or instrumentality of the City.

Public right-of-way shall mean any street, avenue, boulevard, road, highway, sidewalk, alley or similar place which is leased, owned or controlled by a governmental entity.

Public space shall mean any real property or structures thereon that is owned, leased or controlled by a governmental entity.

Pure tone shall mean any sound that can be judged as a single pitch or set of single pitches by the Code Compliance Inspector.

Real property line shall mean either (a) the line, including its vertical extension, that separates one (1) parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwelling unit that is contained within a multi-use building.

Sound level shall mean the instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow or fast integration speed.

Sound level meter shall mean an instrument used to measure sound pressure levels conforming to standards as specified in ANSI Standard S1.4-1983 or the latest version thereof.

Sound pressure level shall mean twenty (20) multiplied by the logarithm, to the base ten (10), of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels. (Code 1972, § 78-9; Ord. No. 154, 2001, 11-6-01; Ord. No. 071, 2004, § 1, 5-18-04; Ord. No. 084, 2008, § 3, 8-19-08)

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

Sec. 20-22. Reserved.*

Sec. 20-23. Maximum permissible noise levels.

(a) A noise measured or registered in the manner provided in § 20-24 from any source at a level which is in excess of the dB(A) established for the time period and zoning districts listed in this Section is hereby declared to be a noise disturbance and is unlawful. When a noise source can be identified and its noise measured in more than one (1) zoning district, the limits of the most restrictive zoning district shall apply.

*Zoning Districts
Maximum Noise [dB (A)]*

Areas zoned:

Low Density Residential (R-L)	
Urban Estate (U-E)	
Foothills Residential (R-F)	
High Density Mixed-Use Neighborhood (H-M-N)	
Low Density Mixed-Use Neighborhood (L-M-N)	
Medium Density Mixed-Use Neighborhood (M-M-N)	
Neighborhood Conservation Low Density (N-C-L)	
Neighborhood Conservation Medium Density (N-C-M)	
Neighborhood Conservation Buffer (N-C-B)	
Public Open Lands (P-O-L)	
River Conservation (R-C)	
Transition (T)	
7:00 a.m. to 8:00 p.m.	55
8:00 p.m. to 7:00 a.m.	50

Areas zoned:

Downtown Old City Center (D)	
Downtown Canyon Avenue (D-C-A)	
Downtown Civic Center (D-C-C)	
River Downtown Redevelopment Commercial (R-D-R)	
Community Commercial (C-C)	
Community Commercial North College (C-C-N)	
Community Commercial River (C-C-R)	
Commercial North College (C-N)	
Neighborhood Commercial (N-C)	
Limited Commercial (C-L)	
Harmony Corridor (H-C)	
7:00 a.m. to 8:00 p.m.	60
8:00 p.m. to 7:00 a.m.	55

Areas zoned:

Employment (E)	
7:00 a.m. to 8:00 p.m.	70
8:00 p.m. to 7:00 a.m.	65

Areas zoned:

Industrial (I)	
7:00 a.m. to 8:00 p.m.	80
8:00 p.m. to 7:00 a.m.	75

(b) If the noise source in question is a pure tone, the limits set forth above shall be reduced by five (5) dB(A).

* **Editor's note**—Section 1 of Ord. No. 084, 2008, adopted 8-19-08, renumbered former § 20-22, Unreasonable noise, as § 17-129.

(c) In multi-use buildings, when noise originates in one (1) unit and is received in another unit within the same building, the maximum dB(A) for such noise shall be the same as the maximum dB(A) for the zoning district in which the building is located.

(Code 1972, § 78-2; Ord. No. 9, 1998, 2-3-98; Ord. No. 154, 2001, 11-6-01)

Cross-reference—Zoning, annexations and development of land, Article 4 of the Land Use Code — Zone Districts.

Sec. 20-24. Classification and measurement of noise.

For the purposes of classifying any noise disturbance and determining whether it is in violation of § 20-23, the following test measurements and requirements shall be applied; provided, however, that a violation of § 17-129 may occur without the following measurements being made:

- (1) Noise shall be measured at a distance of at least twenty-five (25) feet from a noise source located within the public right-of-way, and if the noise source is located on private property or public property other than the public right-of-way, the noise shall be measured at or within the property boundary of the receiving land use.
- (2) The noise shall be measured on a sound level meter.
- (3) No outdoor measurement shall be taken without a wind screen recommended by the sound level meter manufacturer, or during periods when wind speeds, including gusts, exceed fifteen (15) miles per hour.

(Code 1972, § 78-3; Ord. No. 154, 2001, 11-6-01; Ord. No. 084, 2008, § 4, 8-19-08)

Sec. 20-25. Exceptions.

The provisions of this Article shall not apply to:

- (1) Noise from emergency signaling devices;
- (2) Noise from agricultural activities;
- (3) The operation of aircraft or other activities which are subject to federal law with respect to noise control, and the generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;
- (4) Noise from domestic power tools and lawn and garden equipment operated between 7:00 a.m. and 8:00 p.m., provided that such tools or equipment generate less than eighty-five (85) dB(A) at or within any real property line of a residential property;
- (5) Sound from church bells and chimes when a part of a religious observance or service;
- (6) Any tools or equipment used in construction, drilling, earthmoving, excavating, or demolition, provided that all motorized equipment used in such activity is equipped with functioning mufflers, and further provided that such work takes place between 7:00 a.m. and 8:00 p.m.;
- (7) Noise from snow blowers, snow throwers and snow plows when operated with a muffler for the purpose of snow removal;
- (8) The City for noise emanating from any public right-of-way;
- (9) Noise generated from golf course maintenance equipment;
- (10) Noise generated by tools or equipment during emergency operations or activities that are reasonably necessary for the public health, safety or welfare.

(Code 1972, § 78-4; Ord. No. 26, 1990, 4-3-90; Ord. No. 93, 1999, 6-15-99; Ord. No. 154, 2001, 11-6-01)

Sec. 20-26. Extraterritorial noise source.

If noise measured at a location within the City limits exceeds the maximum permissible noise levels contained in § 20-23 for the zoning district in which the noise is measured, and the source of the noise is located in an unincorporated area of the County, the City shall have jurisdiction to prosecute such noise violation provided that:

- (1) The complainant has first sought enforcement of any applicable county noise law or regulation and the County has declined to initiate any court proceedings to enforce said law or regulation, or thirty (30) days have elapsed from the date of filing the complaint with the County and no such proceedings have been initiated; or
 - (2) The person charged with a violation of the County's law or regulation has been acquitted of such charge, or such charge has been dismissed, and the elements constituting a violation of the County law or regulation are substantially different than the elements constituting a violation of § 20-23.
- (Ord. No. 154, 2001, 11-6-01)

Sec. 20-27. Variances.

(a) Any person who owns or operates any stationary noise source may apply to the Code Compliance Inspector for a variance from one (1) or more of the provisions of this Article. Applications for a variance shall supply information including, but not limited to:

- (1) The nature and location of the noise source for which such application is made;
- (2) The reason for which the variance is requested, including the hardship that will result to the applicant, his/her client or the public if the permit of variance is not granted;
- (3) The level of noise that will occur during the period of the variance;
- (4) The section or sections of this Article for which the variance shall apply;
- (5) A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
- (6) A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this Article within a reasonable time.

(b) Failure to supply the information required by the Code Compliance Inspector shall be cause for rejection of the application.

(c) The Code Compliance Inspector may charge the applicant a fee, in accordance with § 7.5-1 of this Code, to cover expenses resulting from the processing of the variance application.

(d) The Code Compliance Inspector may, at his or her discretion, limit the duration of the variance, which shall be no longer than one (1) year. Any person granted a variance and requesting an extension of time shall apply for a new variance under the provisions of this Section.

(e) No variance shall be approved unless the applicant presents adequate proof that:

- (1) Noise levels occurring during the period of the variance will not constitute a danger to public health; and
- (2) Compliance with this Article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

(f) Under no circumstances shall the noise level of an activity for which a variance is granted for a period of time in excess of eight (8) hours exceed ninety (90) decibels.

(g) In determining whether to grant a variance, the Code Compliance Inspector shall consider:

- (1) The character and degree of injury to, or interference with, the public health and welfare and the reasonable use of property that is caused or threatened to be caused;
 - (2) The social and economic value of the activity for which the variance is sought; and
 - (3) The ability of the applicant to apply the best practical noise control measures.
- (h) A variance may be revoked by the Code Compliance Inspector if there is:
- (1) Violation of one (1) or more terms or conditions of the variance;
 - (2) Material misrepresentation of fact in the variance application; or
 - (3) Material change in any of the circumstances relied on by the Code Compliance Inspector in granting the variance.
- (i) Variance decisions may be appealed to the City Manager by the applicant or any affected person.
(Code 1972, § 78-5; Ord. No. 154, 2001, 11-6-01)

Sec. 20-28. Motor vehicle maximum sound levels.

(a) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the levels set forth below:

<i>Vehicles class (GVWR)</i>	<i>Speed limit where posted 35 mph or less or speed limits regulated under the Fort Collins Traffic Code [sound pressure level dB(A)]</i>	<i>Speed limit where posted greater than 35 mph [sound pressure level dB(A)]</i>
Motor vehicles with a manufacturer's gross vehicle weight rating (GVWR) of 10,000 pounds (4,536 kg) or more, or by any combination of vehicles towed by such motor vehicle	86	90
Any other motor vehicle or any combination of vehicles towed by any motor vehicle, to include but not to be limited to automobiles, vans, light trucks or any motorcycle with a gross vehicle weight rating (GVWR) less than 10,000 pounds (4,536 kg)	80	84

(b) No person shall operate or cause to be operated any motor vehicle or motorcycle off a public right-of-way in such a manner that the sound level emitted exceeds the limits set forth in § 20-23. This Section shall apply to all mo-

tor vehicles, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious crafts, campers and dune buggies.

(c) Noise shall be measured at a distance of at least twenty-five (25) feet from the lane being monitored.

(d) The noise shall be measured on a sound level meter.

(e) No outdoor measurement shall be taken without a wind screen recommended by the sound level meter manufacturer, or during periods when wind speeds, including gusts, exceed fifteen (15) miles per hour.

(Code 1972, § 78-7; Ord. No. 154, 2001, 11-6-01; Ord. No. 16, 2003, § 10, 2-18-03)

Cross-reference—Vehicles and traffic, Ch. 28; Fort Collins Traffic Code.

Sec. 20-29. Violations and penalties.

(a) Any person who violates any provision of this Article, upon conviction, shall be subject to the penalty in § 1-15.

(b) Violation of any provision of this Article shall be cause for a summons to be issued by authorized enforcement officials according to adopted procedures.

(Code 1972, § 78-8(A), (B); Ord. No. 154, 2001, 11-6-01)

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

ARTICLE III. EXTERIOR PROPERTY MAINTENANCE

Sec. 20-30. Nuisance declared and prohibited.

No owner or occupant of any real property within the City shall permit the maintenance or existence on such property of dirt yards or dilapidated fences or walls as said conditions are more particularly addressed and regulated by provisions of this Article, and such conditions are hereby declared to be a nuisance and a menace to the public welfare. This declaration of nuisance and prohibition shall apply only to locations that are visible from a public street or sidewalk. For the purposes of this Section and § 20-31, the term *yard* shall mean the open space between buildings and property lines at the front, rear and sides of any property containing one (1) or more buildings which, if newly constructed, would require a certificate of occupancy under this Code.

(Ord. No. 088, 2008, 8-19-08)

Sec. 20-31. Yard maintenance.

No less than eighty (80) percent of any yard area, excluding sidewalks and driveways, shall be covered with grass, ground cover plants or other landscaping material, such as mulch, decorative gravel, stone or paving bricks. Ground cover consisting of crushed rock, gravel or similar materials shall be one quarter ($\frac{1}{4}$) inch or larger in size and shall be maintained at a depth that is sufficient to cover all exposed areas of dirt.

(Ord. No. 088, 2008, 8-19-08)

Sec. 20-32. Fence and wall maintenance.

All fences and walls shall be structurally sound and maintained in good repair so that there are no broken, loose, damaged, removed or missing parts (i.e., pickets, slats, posts, wood rails, bricks, panels). Repair of fences and walls shall be made with materials that are comparable in composition, color, size, shape, design and quality to those originally used to construct the fence or wall being repaired. Nothing herein shall be construed to prohibit or restrict the replacement of a fence or wall.

(Ord. No. 088, 2008, 8-19-08)

Sec. 20-33. Abatement.

The owner of any private property on which a nuisance condition occurs is responsible for abating the nuisance. The owner's failure or refusal to abate a nuisance is a civil infraction. A separate offense shall be deemed committed

on each day that a violation occurs or continues. The payment of any penalty does not relieve the offender from compliance with the requirements of this Article.
(Ord. No. 088, 2008, 8-19-08)

Sec. 20-34. Violations and penalties.

Any person who violates any provision of this Article commits a civil infraction and is subject to the penalty provisions of Subsection 1-15(f).
(Ord. No. 088, 2008, 8-19-08)

Secs. 20-35—20-40. Reserved.

**ARTICLE IV.
WEEDS, BRUSH PILES AND RUBBISH***

Sec. 20-41. Definitions.

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

Backyard wildlife habitat certification shall mean certification by the Department of Natural Resources under its backyard wildlife habitat program recognizing a yard as having the necessary components to sustain the desired wild-life species.

Brush pile shall mean an accumulation of cuttings or dead portions of trees and shrubs.

City Manager shall mean the City Manager or the designated representative of the City Manager.

Compost shall mean a mixture consisting of decayed organic matter used for fertilizing and conditioning soil.

Ditch shall mean any channel, either man-made or natural, to carry water for drainage or irrigation, including its access and/or maintenance easements on either side.

Natural area certification shall mean certification by the Department of Natural Resources under its natural areas program recognizing a one-quarter-acre or larger site as having the necessary components to be classified as a natural area.

Open area shall mean real property zoned as open space or designated transition or any other undeveloped real property in single, common or joint ownership.

Ornamental grasses shall mean any of the following grasses: yellow foxtail (*Alopecurus pratensis*), blue or western wheatgrass (*Agropyron smithii* or *Pascopyrum smithii*), big bluestem (*Andropogon gerardii*), bulbous oatgrass (*Arrhenatherum elatius*), sideoats grama (*Bouteloua curtipendula*), blue grama (*Bouteloua gracilis* or *Chondrosum gracile*), rattlesnake or quaking grass (*Briza media*), feather reed grass (*Calamagrostis acutiflora* or *C. arundinacea*), northern sea oats (*Chasmanthium latifolium*), pampas grass (*Cortaderia selloama*), lemon grass (*Cymbopogon citratus*), tufted hair grass (*Deschampsia caespitosa*), blue lyme grass (*Elymus arenarius*), sand love grass (*Eragrotis trichodes*), ravenna or plume grass (*Erianthus ravennae* or *Saccharum ravennae*), blue fescue (*Festuca cinerea*, *F. ovina* or *F. glauca*), variegated mannagrass (*Glyceria maxima variegata*), blue oatgrass (*Helictotrichon sempervirens*), velvet grass (*Holcus lanatus*), Japanese blood grass (*Imperata cylindrica*), junegrass (*Koeleria cristata*, *K. gracilis* or *K. macrantha*), woodrush (*Leymus* spp. or *Luzula* spp.), hairy melic grass (*Melica ciliata*), giant Chinese silvergrass (*Miscanthus floridulus* or *M. giganteus*), Japanese silvergrass (*Miscanthus oligostachys*), silver banner grass (*Miscanthus sacchariflorus*), maiden grass or silvergrass (*Miscanthus sinensis*), moor grass (*Molina caerulea*), muhly grass (*Muhlenbergia* spp.), Indian ricegrass (*Oryzopsis hymenoides* or *Achnatherum hymenoides*), switchgrass (*Panicum virgatum*), feathergrass (*Pennisetum alopecuroides*), tender fountain grass (*Pennisetum setaceum*), feather top (*Pennisetum villosum*), ruby grass (*Rychelytrum neriglume*), little bluestem (*Schizachyrium*

* **Cross-references**—Refuse and rubbish accumulation prohibited, § 12-18; vegetation, Ch. 27.

scoparium or *Andropogon scoparius*), autumn moorgrass (*Sesleria autumnalis*), Indian grass (*Sorghastrum nutans* or *S. avenaceum*), cord grass (*Spartina spp.*), frost or graybeard grass (*Spodiopogon spp.*), prairie dropseed (*Sporobolus heterolepis*) and any other species of grass approved by the City Manager that is customarily used for ornamental purposes and not as a turf grass.

Owner or *occupant* shall mean the owner of record as shown in any record of the City, County or State or any agent or representative of such owner and any person entitled, by easement lease or tenancy, to possession or use of the premises.

Property shall mean in addition to the owner's lot or tract of land whether improved or vacant, the area to the center of any alley abutting the lot or tract of land; any easements on or under the lot or tract of land; and the sidewalk, curb, gutter and parking area of any street abutting such lot or tract of land.

Refuse shall mean solid and liquid wastes, except hazardous wastes, whether putrescible or nonputrescible, combustible or noncombustible, organic or inorganic, including but not limited to wastes and materials commonly known as trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, glass, rags, discarded clothes or wearing apparel of any kind or any other discarded object not exceeding three (3) feet in length, width or breadth.

Rubbish shall mean nonputrescible solid wastes of a large size, including but not limited to large pieces of wood, large cardboard boxes or parts, large or heavy yard trimmings, discarded fence posts, crates, vehicle tires, junked or abandoned motor vehicle bodies or parts, scrap metal, bedsprings, water heaters, discarded furniture and all other household goods or items, demolition materials, used lumber and other discarded or stored objects three (3) feet or more in length, width or breadth.

Weed shall mean an aggressive, non-native herbaceous plant detrimental to native plant communities or agricultural lands, including but not limited to jointed goatgrass (*Aegilops cylindrica*), quackgrass (*Agropyron repens*), redroot pigweed (*Amaranthus retroflexus*), common ragweed (*Ambrosia artemisiifolia*), giant ragweed (*Ambrosia trifida*), wild oat (*Avena fatua*), white mustard (*Brassica hirta*), wild mustard (*Brassica kaber*), black mustard (*Brassica nigra*), birdsrape mustard (*Brassica rapa*), marijuana (*Cannabis sativa*), whitetop (*Cardaria draba*), hairy whitetop (*Cardaria pubescens*), sandbur (*Cenchrus longispinus*), diffuse knapweed (*Centaurea diffusa*), spotted knapweed (*Centaurea maculosa*), Russian knapweed (*Centaurea repens*), Canada thistle (*Cirsium arvense*), bindweed (*Convolvulus arvensis*), leafy spurge (*Euphorbia esula*), St. Johnswort (*Hypericum perforatum*), kochia (*Kochia scoparia*), prickly lettuce (*Lactuca serriola*), perennial pepperweed (*Lepidium latifolium*), dalmatian toadflax (*Linaria genistifolia* spp. *dalmatica*), yellow toadflax (*Linaria vulgaris*), purple loosestrife (*Lythrum salicaria*, *Lythrum virgatum* and any combinations thereof), buckhorn plantain (*Plantago lanceolata*), curly dock (*Rumex crispus*), Russian thistle (*Salsola iberica*), horsenettle (*Solanum elaeagnifolium*), black nightshade (*Solanum nigrum*), buffalobur (*Solanum rostratum*), perennial sow thistle (*Sonchus arvensis*), Johnsongrass (*Sorghum halepense*), dandelion (*Taraxacum officinale*), fanweed (*Thlaspi arvense*), puncturevine (*Tribulus terrestris*), cocklebur (*Xanthium strumarium*) and any other type of noxious weeds designated by the Colorado Weed Law or Larimer County Weed District.

Yard shall mean the open space between buildings and property lines at the front, rear and sides of a property. (Code 1972, § 79-6; Ord. No. 184, 1986, § 1(79-6), 11-18-86; Ord. No. 89, 1994, § 3, 6-21-94; Ord. No. 155, 1997, § 2, 11-4-97; Ord. No. 51, 2000, §§ 6, 7, 5-16-00; Ord. No. 104, 2000, § 1, 9-5-00; Ord. No. 128, 2002, §§ 1, 2, 9-17-02; Ord. No. 130, 2002, § 27, 9-17-02; Ord. No. 029, 2004 § 1, 3-2-04; Ord. No. 198, 2006, § 13, 12-19-06)

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

Sec. 20-42. Weeds and rubbish nuisances prohibited.

(a) All weeds, brush piles, unmowed grasses required to be mowed under Subsection (c) of this Section, refuse and rubbish on a property within the City are hereby declared to be a nuisance and a menace to the health and safety of the inhabitants of the City.

(b) It is unlawful for the owner or occupant of any property to permit refuse, rubbish or brush piles to accumulate on any part of the property. All refuse shall be

stored for prompt disposal on the premises in refuse containers, and the storage area shall be kept free of loose refuse. Any refuse or rubbish which by its nature is incapable of being stored in refuse containers may be neatly stacked or stored for prompt disposal. The number and size of refuse containers shall be sufficient to accommodate the accumulation of refuse from the property. Containers shall be secured and placed where they are screened from view of the street and are not susceptible to being spilled by animals or wind or other elements.

(c) Except as is provided in Subsection (d) of this Section, it is unlawful for the owner of any property to permit weeds and grasses to grow upon such property to a height of more than six (6) inches; provided, however, that this Subsection (c) shall not be applicable to any ornamental grass so long as it is used solely, or in combination with any other ornamental grass or grasses, as a supplement to the property's overall landscaped area and does not constitute in square footage more than twenty (20) percent of the property's overall landscaped area.

(d) It is unlawful for the owner of any open area, ditch, ditch right-of-way or railroad right-of-way to allow the growth of weeds or grasses other than those grown for agricultural purposes upon such open area, ditch or right-of-way in excess of twelve (12) inches in height.

(e) It is unlawful for the owner or occupant of any property to permit the growth of noxious weeds as designated by the Colorado Weed Law or Larimer County Weed District, regardless of height.

(f) No person shall cause or allow the disposal of refuse or rubbish by burning except in an incinerator that is designed for such purpose and pursuant to an operating permit from the State Department of Public Health and Environment. In no event may rubbish or refuse be burned in a stove or fireplace except for clean, dry, untreated wood.

(g) No person shall, for a period longer than twenty-four (24) hours at any one (1) time, store or permit to remain on any business, commercial or industrial premises owned or occupied by such person, any manure, refuse, animal or vegetable matter or any foul or noxious liquid waste which is likely to become putrid, offensive or injurious to the public health, safety or welfare.

(h) No owner or occupant of any premises which are adjacent to any portion of an open area, vacant lot, ditch, detention pond, storm drain or watercourse shall cause the accumulation of refuse, rubbish or storage of any material within or upon such adjacent areas.

(i) The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that refuse and rubbish will be prevented from being carried by the elements to adjoining premises. All refuse and rubbish from construction or related activities shall be picked up at the end of each workday and placed in containers which will prevent refuse and rubbish from being carried by the elements to adjoining premises.

(j) The accumulation of refuse and rubbish which constitutes or may create a fire, health or safety hazard or harborage for rodents is unlawful and is hereby declared to be a nuisance.

(k) The owner or occupant of any premises within the City, whether business, commercial, industrial or residential premises, shall maintain the property in a neat, tidy, methodical, systematic, clean and orderly condition, permitting no deposit or accumulation of materials other than those ordinarily attendant upon the use for which the premises are legally intended. If a property is used for a purpose (including, without limitation, a junkyard) which, by its fundamental nature, cannot be maintained as required above, then, in lieu thereof, such property, or any affected portion thereof, shall be completely screened from public view and from the view of any abutting property that is used for residential purposes.

(Code 1972, § 79-7; Ord. No. 184, 1986, § 2(79-7(A)—(D)), 11-18-86; Ord. No. 89, 1994, § 3, 6-21-94; Ord. No. 51, 2000, § 8, 5-16-00; Ord. No. 104, 2000, §§ 2, 3, 9-5-00; Ord. No. 198, 2006, § 14, 12-19-06)

Sec. 20-42.5. Outdoor furniture restriction; defenses.

(a) Keeping upholstered furniture which is not manufactured for outdoor use in outdoor areas where such furniture is visible to neighbors and passersby in the public right-of-way is hereby declared to be a nuisance. Accordingly, no person shall place, use, keep, store or maintain any upholstered furniture not manufactured for outdoor use, includ-

ing, without limitation, upholstered chairs, upholstered couches and mattresses, in or on any porch, patio or other unenclosed structure where such furniture is visible from a public right-of-way or from the ground level of adjacent property, and no property owner or property manager shall knowingly permit any such activity to occur on property owned or managed by such person.

(b) The following shall constitute specific defenses to any alleged violation of this Section:

(1) That such furniture was placed in the location in question in order to allow it to be moved during a move of a resident or residents of the premises or has been removed as part of a trash or recycling program on a day scheduled for such moving or removal.

(2) That such furniture was temporarily placed in the location in question in order that it be offered for sale at a yard or garage sale if each of the following conditions exists; provided, however, that this defense shall not apply if upholstered furniture is located in an outside location for more than two (2) days in any six-month period:

a. The furniture is located in an outside location only between the hours of 7:00 a.m. and 5:00 p.m.;

b. The person attempting to sell the furniture, or that person's agent, is outside during the period of the yard or garage sale in order to monitor the sale; and

c. A sign is placed on or near the furniture indicating that it is for sale.

(Ord. No. 128, 2002, § 3, 9-17-02; Ord. No. 029, 2004 § 2, 3-2-04; Ord. No. 198, 2006, § 15, 12-19-06)

Sec. 20-42.6. Outdoor storage of materials.

No owner or occupant of any residential premises shall permit the outdoor storage on such premises of materials not customarily stored outdoors in residential neighborhoods, such as, but not limited to, construction materials, tires and household appliances, if such materials, whether or not sheltered or covered or within a carport or other partially enclosed structure, are visible from any public street, sidewalk, alley or from the ground level of abutting properties. The storage of materials within a garage or other fully enclosed structure shall not be considered outdoor storage for the purposes of this provision. Notwithstanding the foregoing, construction materials may be stored outdoors on residential premises for a period not to exceed nine (9) months, or for such longer period of time as may have been approved by the City Manager, if such materials are being used in the construction of a structure for which a building permit has been issued by the City.

(Ord. No. 075, 2004, 6-1-04)

Sec. 20-43. Wildlife habitat, certified natural areas and compost exceptions.

(a) An owner of a tract of land that has been certified as a backyard wildlife habitat may have a brush pile not to exceed eight (8) feet by eight (8) feet wide by three (3) feet in height if it is permitted by the terms of the backyard wildlife habitat certification or the natural areas certification.

(b) An owner of a tract of land that has been certified as a natural area is permitted to have grasses growing in excess of twelve (12) inches high. This exception will be limited to the grass species and areas of the site identified with the certification document.

(c) An occupant of any single-family or two-family residence may maintain a compost pile that is a separated area containing alternate layers of plant refuse materials and soil maintained to facilitate decomposition and produce organic material to be used as a soil conditioner. Any such compost pile shall be so maintained as to prevent it becoming a nuisance by putrefying or attracting insects or animals.

(Ord. No. 184, 1986, § 2(79-7(E)), 11-18-86; Ord. No. 89, 1994, § 3, 6-21-94; Ord. No. 51, 2000, § 9, 5-16-00; Ord. No. 104, 2000, § 4, 9-5-00; Ord. No. 198, 2006, § 16, 12-19-06)

Sec. 20-44. Notice of violation; removal authority and procedure; assessment lien on property.

(a) The Neighborhood and Building Services Director and any officer, as such is defined in § 19-66, are authorized and directed to give notice to any owner and occupant whose property, open area, ditch or right-of-way is being

kept or maintained in violation of the provisions of this Article. Such notice may be personally served upon such person or, if not personally served, shall be deposited in the United States mail, addressed to the occupant and owner of record at the address on the assessment roll of the County Assessor or at such other, more recent address as may be available to the City, or with respect to notice to occupants, at the address of the property so occupied.

The notice shall state that, if the property, open area, ditch or right-of-way has not been brought into compliance with this Article on or before five (5) days from the date of such notice, a civil citation will issue and the abatement of the nuisance will be done by the City and any costs of abatement, including the cost of inspection, the cost of any grading or sloping necessary to protect the public safety and other incidental costs in connection therewith and the costs for carrying charges and costs of administration will be charged against the property, open area, ditch or right-of-way, in addition to any other penalty and costs or orders that may be imposed. With respect to rubbish only, the notice shall also state that, if said owner desires a hearing before the Referee to contest the declaration of nuisance and/or the removal, such owner shall request such hearing in writing to the Director of Neighborhood and Building Services within five (5) days of mailing of the notice and shall further state that, if a request for such hearing is made, the City will remove the rubbish in accordance with Subsection (b) below and will store the material pending the holding of the hearing and the determination therefrom. The notice shall further state that if no request for such hearing is timely filed, the City will remove the rubbish in accordance with Subsection (b) below and shall destroy or otherwise dispose of the rubbish.

(b) If the property, open area, ditch or right-of-way has not been brought into compliance with this Article within five (5) days from the date of the notice and if the owner has not requested a hearing before the Referee to contest the declaration of nuisance and/or the removal as provided in Subsection (a) above, the removal may be done by the City, either by City personnel or by private contractors, as the Director of Neighborhood and Building Services shall determine. In the event of such removal by the City, the cost, including inspection, removal of obstructions, if any, the cost of any grading or sloping necessary to protect the public safety, other incidental costs in connection therewith, and the costs for carrying charges and administration shall be assessed against the offending property, open area, ditch or right-of-way and the owner thereof. With respect to rubbish only, if the owner has requested a hearing pursuant to the provisions of Subsection (a), removal of the rubbish may be accomplished as provided in this Subsection; provided, however, that such material removed shall be stored by the City until such time as the Referee holds the hearing and determines, based upon the evidence presented by the owner and the staff of the City, whether the nuisance should have been declared and the rubbish removed. If the Referee determines that the declaration of nuisance and removal are proper, then the rubbish shall be destroyed or otherwise disposed of by the City, and the additional costs of storage shall be assessed, together with all other costs, as provided above. If the Referee determines that the declaration of nuisance and removal were improper, then the material shall be returned to the owner and no costs shall be assessed.

(c) Any cost assessment shall be a lien in the several amounts assessed against each property, open area, ditch or right-of-way from the date the assessment became due until paid and shall have priority over all other liens, except general taxes and prior special assessment liens. Any such assessment shall be billed by the Director of Neighborhood and Building Services, or his or her designee, to the owner by deposit in the United States mail addressed to the owner of record at the address as shown on the tax rolls or such other, more recent address as may be available to the City, and to any agents, representatives or occupants as may be known. If any such assessment is not paid within thirty (30) days after it has been billed, the Financial Officer, or his or her designee, is hereby authorized to thereafter certify to the County Treasurer the list of delinquent assessments so billed, giving the name of the owner as it appears of record, the number of the lot and block and the amount of the assessment plus a ten-percent penalty. The certification shall be the same in substance and form as required for the certification of other taxes. The County Treasurer, upon receipt of such certified list, is hereby authorized to place it upon the tax list for the current year and to collect the assessment in the same manner as general property taxes are collected, together with any charges as may by law be made by the County Treasurer and all laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for unpaid taxes and the redemption thereof, shall apply to and have full force and effect for the collection of all such assessments. Notwithstanding the foregoing, if the offending property, open area, ditch or right-of-way is not subject to taxation, the City may elect alternative means to collect the amounts due

pursuant to this Article, including the commencement of an action at law or in equity and, after judgment, pursue such remedies as are provided by law.

(Ord. No. 184, 1986, § 2(79-8), 11-18-86; Ord. No. 141, 1990, §§ 1, 2, 1-15-91; Ord. No. 89, 1994, § 3[4], 6-21-94; Ord. No. 156, 1997, 11-4-97; Ord. No. 51, 2000, § 10, 5-16-00; Ord. No. 52, 2002, § 1, 4-16-02; Ord. 074, 2004, 5-18-04; Ord. No. 198, 2006, § 17, 12-19-06; Ord. No. 131, 2007, § 1, 11-20-07)

Sec. 20-45. Violations and penalties.

Any person who violates any provision of this Article, except Subsections 20-42(f) and 20-42(j), commits a civil infraction and is subject to the penalty provisions of Subsection 1-15(f). Any person who violates Subsection 20-42(f) or 20-42(j) commits a misdemeanor criminal offense and is subject to a penalty or imprisonment, costs and fees and any other orders imposed in accordance with § 1-15.

(Ord. No. 141, 1990, § 3, 1-15-91; Ord. No. 8, 1996, § 4, 2-20-96; Ord. No. 130, 2002, § 8, 9-17-02; Ord. No. 198, 2006, § 18, 12-19-06; Ord. No. 085, 2008, § 4, 8-19-08)

Secs. 20-46—20-60. Reserved.

ARTICLE V. DIRT, DEBRIS AND CONSTRUCTION WASTE*

Sec. 20-61. Definitions.

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

City Manager shall mean the City Manager or the designated representative of the City Manager.

Dirt, debris, construction waste shall mean common earth, salvage material, refuse, garbage, rubbish or other waste materials associated with or resulting directly or indirectly from construction activity or process.

Street or right-of-way shall mean the entire width between the dedicated or deeded boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purposes of vehicular, bicycle or pedestrian travel; or the entire width of every way declared to be a public street or highway by any law of the State. *Street or right-of-way* is further defined as any street on which a certificate of occupancy has been issued for more than one (1) address or a street approved and accepted by the City.

Vehicle shall mean every device in, upon or by which any person, property or material is or may be transported or drawn upon a street or right-of-way, except devices moved by human power.

(Code 1972, § 79-11)

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

Sec. 20-62. Depositing on streets prohibited.

No person shall allow the tracking, dropping or depositing of dirt, debris, construction waste or any other material by or from any vehicle onto any street or right-of-way as defined herein. If the tracking, dropping or depositing occurs, the person responsible shall promptly remove all material and return the street or right-of-way to its prior condition.

(Code 1972, § 79-12(A))

Sec. 20-63. Removal of all debris required.

No person engaging in activity at a construction site or operation area in conjunction with construction activity shall allow the street or right-of-way to accumulate construction materials, waste material, debris or rubbish as the result of the construction activity. Such person shall remove all construction materials, waste material, debris, rub-

* **Cross-reference**—Streets and sidewalks, Ch. 24.

bish, tools, construction equipment, machinery and surplus materials from the street or right-of-way if public access to the street or right-of-way is restricted in any manner.
(Code 1972, § 79-12(B))

Sec. 20-64. Responsibility for such nuisance.

Any person functioning as a general contractor or superintendent with overall construction responsibilities and/or supervision of the construction site or operation area shall be held responsible for any violations of the provisions of this Article by any agents, employees, subcontractors or haulers of materials or supplies to and from the construction site.

(Code 1972, § 79-12(C))

Cross-reference—Contractors, § 15-151, et seq.

Sec. 20-65. Removal by City.

Such deposits of dirt, debris or other materials are hereby declared to constitute a nuisance and hazard to the public. The City Manager may remove the deposits or materials and charge the general contractor, superintendent, owner of the property on which the work is being performed or other person responsible for the full cost of such removal. Until such charge has been fully paid, no such contractor, superintendent, owner or other responsible person shall be entitled to obtain further construction-related permits or certificates from the City.

(Code 1972, § 79-12(D); Ord. No. 184, 1986, § 5, 11-18-86)

Sec. 20-66. Penalty.

Any person who violates any of the provisions of this Article commits a misdemeanor and shall be subject to a fine or imprisonment in accordance with § 1-15.

(Code 1972, § 79-12(E))

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

Secs. 20-67—20-80. Reserved.

**ARTICLE VI.
JUNKED, WRECKED, ABANDONED, INOPERABLE PROPERTY***

DIVISION 1. GENERALLY

Secs. 20-81—20-90. Reserved.

DIVISION 2. INOPERABLE MOTOR VEHICLES

Sec. 20-91. Definitions.

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

Inoperable motor vehicle shall mean any motor vehicle that does not have a current license plate and validation sticker lawfully affixed thereto or that is in a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed.

Motor vehicle shall mean any self-propelled vehicle which as originally *built* contained an engine, regardless of whether it contains an engine at any other time, including, without limitation, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the-road vehicles.

* **Cross-references**—Refuse and rubbish accumulation prohibited, § 12-18; surplus public property, § 23-101, et seq.; lost, abandoned, stolen, confiscated property, § 23-126, et seq.

Property includes, in addition to the owner's lot or tract of land, whether improved or vacant, the area to the center of an *alley* abutting the lot or tract of land, if any, all easements of record, and the sidewalk, curb, gutter and parking area of any street abutting such lot or tract of land.

Unsheltered shall mean located outside a garage or other building in such a manner as to be visible to a person standing upon any public street, alley, sidewalk or right-of-way or to any person standing at ground level upon any adjoining piece of property.

(Ord. No. 183, 1986, § 1(54-2), 11-18-86)

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

Sec. 20-92. Unsheltered storage prohibited.

The unsheltered storage of an inoperable motor vehicle for thirty (30) days or more on any private property within the City is hereby declared to be a nuisance and dangerous to the public health, safety and welfare. An inoperable motor vehicle not located in a garage or other building shall be placed behind screening of sufficient size, strength and density, such as a solid fence, trees or shrubbery, to screen it from ordinary public view and to prohibit ready access to such vehicle by children.

(Ord. No. 183, 1986, § 1(54-21(a)), 11-18-86)

Sec. 20-93. Exceptions.

This Article does not apply to a motor vehicle which is a collector's item or parts car as defined in C.R.S. 42-12-101 and which is licensed and stored in compliance with the provisions of state law, in particular C.R.S. 42-12-101, et seq. Nor does this Article apply to any person who is conducting an automobile sales, storage or repair enterprise operated in compliance with existing zoning regulations when the storage is necessary to the operation of such business enterprise. These exceptions for collector's items and certain lawfully conducted business enterprises are affirmative defenses to be pled and proved by the defendant in any judicial proceedings under this Article.

(Ord. No. 183, 1986, § 1(54-21(b)), 11-18-86)

Sec. 20-94. Sheltered or exempt vehicles must comply with other nuisance provisions.

Nothing in this Article shall be construed to permit exempt or sheltered storage of inoperable motor vehicles to be conducted in such manner as to constitute a public nuisance under other provisions of this Code, including without limitation allowing accumulation of refuse and rubbish and growth of weeds and brush in and about the storage area, breeding of insects and rodents or direct danger to persons from broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or supports or explosion hazard.

(Ord. No. 183, 1986, § 1(54-21(c)), 11-18-86; Ord. No. 198, 2006, § 19, 12-19-06)

Sec. 20-95. Abatement; removal.

The owner and the occupant of the private property on which the unsheltered storage is occurring and the owner of the inoperable motor vehicle in question are jointly and severally responsible to abate the nuisance. Every person who fails, neglects or refuses to abate the nuisance commits a civil infraction. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. The payment of any penalty does not exempt the offender from compliance with the requirements of this Article. No person, after abatement notification has been given, shall move the inoperable motor vehicle in question to any other private property upon which storage of such vehicle is not permitted or onto any public property or right-of-way.

(Ord. No. 183, 1986, § 1(54-22), 11-18-86; Ord. No. 198, 2006, § 20, 12-19-06)

Sec. 20-96. Violations and penalties.

Any person who violates any provision of this Article commits a civil infraction and is subject to the penalty provisions of Subsection 1-15(f). If a person commits three (3) or more violations in twelve (12) consecutive months of any provision of this Code classified as a civil infraction, the third such violation and any subsequent violations within said twelve-month period shall constitute a misdemeanor criminal offense and shall be subject to a penalty or imprisonment, costs and fees and any other orders imposed in accordance with § 1-15.

(Ord. No. 198, 2006, § 21, 12-19-06; Ord. No. 085, 2008, § 5, 8-19-08)

Secs. 20-97—20-99. Reserved.

**ARTICLE VII.
SNOW OBSTRUCTIONS***

Sec. 20-100. Nuisance declared and prohibited; penalty.

The placement, moving or transporting of snow by any person from privately owned property that is not used for residential purposes onto any street or right-of-way (as that term is defined in § 20-61 of this Chapter) is hereby declared to constitute a nuisance as a snow obstruction and a hazard to the public health and safety. No person shall place, move or transport, or cause any other person to place, move or transport, snow from privately owned property that is not used for residential purposes onto any street or right-of-way (as that term is defined in § 20-61 of this Chapter). Any person who violates any provision of this Article commits a civil infraction and is subject to the penalty provisions of Subsection 1-15(f).

(Ord. No. 141, 1990, § 4, 1-15-91; Ord. No. 198, 2006, § 22, 12-19-06; Ord. No. 085, 2008, § 6, 8-19-08)

Sec. 20-101. Removal by City; lien.

(a) The City Manager may, upon the discovery of any such placement, moving or transporting of snow onto a street or right-of-way, immediately have the hazard corrected by removal of such snow from such street or right-of-way; and the cost of such removal, including the cost of inspection and other incidental costs in connection therewith, including the costs for carrying charges and costs of administration, shall be assessed against the property abutting upon or adjacent to the snow obstruction and the owner thereof.

(b) If the property owner contests the declaration of nuisance and/or the assessment of costs, he or she shall file a written request with the Director of Neighborhood and Building Services, within ten (10) days from the service of a notice of assessment, a written request for a hearing before the Referee.

(c) Any cost assessment shall be a lien in the several amounts assessed against each property from the date the assessment became due until paid and shall have priority over all other liens, except general taxes and prior special assessment liens. Any such assessment shall be billed by the Director of Neighborhood and Building Services, or his or her designee, to the owner by deposit in the United States mail addressed to the owner of record at the address as shown on the tax rolls or such other, more recent address as may be available to the City, and to any agents, representatives or occupants as may be known. If any such assessment is not paid within thirty (30) days after it has been billed, the Financial Officer, or his or her designee, is hereby authorized to thereafter certify to the County Treasurer the list of delinquent assessments so billed, giving the name of the owner as it appears of record, the number of the lot and block and the amount of the assessment plus a ten-percent penalty. The certification shall be the same in substance and form as required for the certification of other taxes. The County Treasurer, upon receipt of such certified list, is hereby authorized to place it upon the tax list for the current year and to collect the assessment in the same manner as general property taxes are collected together with any charges as may by law be made by the County Treasurer and all laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for unpaid taxes and the redemption thereof, shall apply to and have full force and effect for the collection of all such assessments. Notwithstanding the foregoing, if the offending property is not subject to taxation, the City may

* **Cross-reference**—Removal of snow and ice from sidewalks required, § 20-102.

elect alternative means to collect the amounts due pursuant to this Article, including the commencement of an action at law or in equity and, after judgment, pursue such remedies as are provided by law.
(Ord. No. 141, 1990, § 4, 1-15-91; Ord. No. 198, 2006, § 23, 12-19-06; Ord. No. 131, 2007, § 2, 11-20-07)

Sec. 20-102. Removal of snow and ice from sidewalks required; lien.

(a) The owners or occupants of property abutting sidewalks within the City shall at all times keep the sidewalks abutting the lot or lots owned or occupied by them free and clear of snow and ice. If any such owners or occupants shall fail to remove the snow and ice from the sidewalks abutting their property within twenty-four (24) hours after the accumulation of snow and ice, then the City Manager may at once have the hazard corrected by removal of snow and ice from the sidewalk or by the application of abrasive material; and the cost, including inspection and other incidental costs in connection therewith, including the costs for carrying charges and costs of administration, shall be assessed against the property abutting the snow obstruction and the owner thereof.

(b) If the property owner contests the declaration of nuisance and/or the assessment of costs, he or she shall file a written request for review with the Director of Neighborhood and Building Services, or a written request for a hearing before the Referee, within ten (10) days from the service of a notice of assessment.

(c) Such assessment shall constitute an automatic, perpetual lien in the several amounts assessed against each property from the date the assessment became due until paid. Such liens shall have priority over all other liens except general taxes and prior special assessments. In case any such assessment that has not been set for hearing pursuant to Subsection (b) above is not paid within thirty (30) days after it has been certified by the Director of Neighborhood and Building Services and billed by the Financial Officer or his or her designee to the owner by deposit in the United States mail, addressed to the owner of record at the address as shown on the tax rolls of the County Assessor, or such other, more recent address as may be available to the City, and any agents, representatives or occupants as may be known, the Financial Officer or his or her designee shall be authorized to certify to the County Treasurer the list of delinquent assessments, giving the name of the owner of record, the number of the lot and block and the amount of assessment plus a ten-percent penalty. The certification shall be the same in substance and in the same form as required for the certification of taxes. The County Treasurer, upon the receipt of such certified list, is hereby authorized to place the same upon the delinquent tax list for the current year and to collect the assessment in the same manner as taxes are collected with such charges as may by law be made by the Treasurer, and all the laws of the State for the assessment and collection of the general taxes, including the laws for the sale of property for unpaid taxes, shall apply to and have full force and effect for the collection of all such assessments. Notwithstanding the foregoing, if the offending property is not subject to taxation, the City may elect alternative means to collect the amounts due pursuant to this Article, including the commencement of an action at law or in equity and, after judgment, pursue such remedies as are provided by law.

(Code 1972, §§ 95-58, 95-59; Ord. No. 142, 1990, § 1, 1-15-91; Ord. No. 198, 2006, § 26, 12-19-06; Ord. No. 084, 2008, § 5, 8-19-08)

Sec. 20-103. Violations and penalties.

Any person who violates any provision of this Article or § 20-102 above commits a civil infraction and is subject the penalty provisions of Subsection 1-15(f.)

(Ord. No. 054, 2007, 5-1-07; Ord. No. 084, 2008, § 5, 8-19-08)

**ARTICLE VIII.
PARKING**

Sec. 20-104. Definitions.

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

Lot shall mean a designated parcel, tract or area of land established by plat, subdivision or otherwise permitted by law to be used, occupied or designed to be occupied by one (1) or more buildings, structures or uses, and which abuts a dedicated right-of-way, private street or private drive, any of which is at least twenty (20) feet wide at all points.

Motor vehicle shall mean any self-propelled vehicle which is designed primarily for the transportation of persons and/or property over public roads and commonly used for such purpose, but does not include motorized bicycles, wheelchairs or vehicles moved solely by human power.

Obstruction shall mean any snow, ice, litter, debris or any other material or thing that blocks a vehicle from using a parking space reserved for persons with disabilities or that unreasonably interferes with the ability of a person with a disability to safely exit or enter a motor vehicle parked in such adjacent space.

Parking space for persons with disabilities shall mean a parking space that has been designated as reserved for persons with disabilities as provided for and in accordance with Section 1208 of the Fort Collins Traffic Code.

Recreational vehicle shall mean a self-propelled vehicle, which is used, designed to be used or modified to be used for recreation, camping, travel or seasonal activities, including but not limited to motor homes, truck campers, busses, all-terrain vehicles, snowmobiles, boats or other watercraft.

Trailer shall mean any type of wheeled vehicle that is pulled, or designed or modified to be pulled, by a motor vehicle, including but not limited to travel trailers, fifth wheels, camping trailers, tent trailers, horse trailers, boat trailers, utility trailers and semi-trailers. *Trailer* shall also include camper shells and truck toppers and other like items designed to be attached to a wheeled vehicle for recreational, camping, travel or seasonal activity purposes.

Unsheltered shall mean located outside a garage or other building in such a manner as to be visible to a person standing upon any public street, alley, sidewalk or right-of-way or to any person standing at ground level upon any adjoining piece of property.

Yard shall mean the open space between buildings and property lines at the front, rear and sides of a property. The *front yard* shall be considered to be the yard between the street abutting the lot and an imaginary line running along the front edge of the building closest to the street and extending to the side property lines. On a corner lot, the *front yard* shall be considered to be the yard abutting the shorter street right-of-way. The *rear yard* shall be considered to be the area located on the opposite side of the lot from the front yard. The *side yard* shall be considered to be that portion of the yard which is neither the front nor the rear yard.

(Ord. No. 030, 2004, § 1, 3-2-04; Ord. No. 201, 2006 § 1, 12-19-06; Ord. No. 078, 2009, §§ 2, 3, 7-21-09)

Sec. 20-105. Parking and storage of motor vehicles and recreational vehicles; nuisance declared and prohibited.

(a) No person shall park or store, or knowingly permit to be parked or stored, any unsheltered motor vehicle, trailer or recreational vehicle other than one (1) motorcycle or moped in any yard of any residential lot for any purpose except the washing of such motor vehicle, trailer or recreational vehicle, unless such vehicle is owned by the owner or occupant of the residential lot and is parked:

- (1) on a portion of the lot which provides direct access to a garage from a street; or
- (2) on an improved area having a surface of asphalt, concrete, rock, gravel or other similar inorganic material, with a permanent border that defines the parking area and that is designed and constructed to prevent loose material, such as rock or gravel, from spilling onto any abutting public street or sidewalk; or
- (3) in a side or backyard placed behind sufficient screening, such as a solid fence, masonry wall or shrubbery, no less than six (6) feet high.

(b) No person shall store or park any vehicle or trailer in such a manner as to obstruct or interfere with pedestrian or vehicle traffic or the view of any intersection or official traffic control device.

(c) The parking of a motor vehicle, trailer or recreational vehicle in violation of this Section is hereby declared to constitute a nuisance.

(d) No yard area that is improved after October 10, 2002, to allow for the parking of motor vehicles, recreational vehicles or trailers shall constitute more than forty (40) percent of any front yard unless said improved area abuts only a street upon which parking is prohibited.

(Ord. No. 140, 2002, § 1, 10-1-02; Ord. No. 030, 2004, § 2, 3-2-04; Ord. 201, 2006, § 2, 12-19-06)

Sec. 20-106. Right of entry granted.

(a) Code enforcement officers and police officers are hereby authorized to enter upon any premises in the City, excluding the interior of a dwelling unit or other enclosed building, for the purpose of affixing a summons or civil citation to a vehicle or trailer subject to this Article parked in violation of § 20-105.

(b) Whenever any vehicle or trailer subject to this Article without a driver is found parked, stored or stopped in violation of § 20-105, the Code Enforcement Officer or police officer finding such vehicle or trailer shall take its registration number and any other information displayed on the vehicle or trailer which may identify its user and shall conspicuously affix to the vehicle or trailer a summons or civil citation notice directing the driver to respond and answer the charge at a place and time specified in said notice.

(c) In any prosecution charging a violation of any provision of this Section, proof that the particular vehicle or trailer described in the notice was parked in violation of such provision, together with proof that the defendant named in the notice was at the time of such violation the registered owner of the vehicle or trailer, or was an owner or occupant of the premises upon which the vehicle was found, shall constitute prima facie evidence that the registered owner or premises occupant was the person who parked or permitted the parking of the vehicle or trailer at the time and place of the violation.

(d) If the driver or owner of a vehicle or trailer charged with a violation of § 20-105 fails to respond to a summons or civil citation affixed to such vehicle or trailer, by appearance or payment pursuant to § 19-67, then default judgment will enter under § 19-73.

(e) This Section provides an alternative method for service of a summons upon the owners of vehicles and trailers required to be registered by law. Nothing in this Section shall preclude a Code Enforcement Officer or police officer from serving a municipal summons or citation in any other manner permitted by law.

(Ord. No. 030, 2004, § 3, 3-2-04; Ord. 201, 2006, § 3, 12-19-06)

Sec. 20-107. Parking space obstructions.

(a) The obstruction of parking spaces reserved for persons with disabilities is hereby declared a nuisance and is prohibited. No person shall deposit, place or pile any snow, ice, litter or other materials onto:

- (1) Any parking space which is identified for use by persons with disabilities, as provided in Section 1208 of the Fort Collins Traffic Code, in a manner that blocks a vehicle from using the parking space; and
- (2) Any area immediately adjacent to a parking space for persons with disabilities that is reasonably necessary for a person with a disability to safely exit or enter a motor vehicle parked in such adjacent space.

(b) No person who is the owner, has the right to possession or is responsible for management of private property upon which a parking space has been reserved for parking by persons with disabilities shall knowingly permit any person to deposit, place or pile any snow, ice, litter or other materials onto any such parking space or on areas immediately adjacent to such parking space if doing so will prevent, or unreasonably interfere with, a person with a disability safely exiting or entering a vehicle parked in such adjacent space.

(c) If any such obstruction of a parking space or adjacent area occurs in violation of this Section, and the property owner, possessor or manager fails to remove the obstruction immediately upon receipt of notice from the City, the Neighborhood Services Manager may, without further notice, have the obstruction abated, in which event the cost of

such abatement, including inspection and other incidental costs in connection therewith, shall be assessed against the property upon which the parking space reserved for persons with disabilities is located.

(d) If the property owner contests the declaration of nuisance and/or the assessment of costs of the City's abatement, he or she shall file a written request for review with the Director of Neighborhood and Building Services, or a written request for a hearing before the Referee, within ten (1) days from the service of a notice of assessment.

(e) Any cost assessment imposed under this Section shall constitute an automatic, perpetual lien in the several amounts assessed against each property from the date the assessment became due until paid. Such liens shall have priority over all other liens except general taxes and prior special assessments. In case any such assessment that has not been set for hearing pursuant to Subsection (d) above is not paid within thirty (30) days after it has been certified by the Director of Neighborhood and Building Services and billed by the Financial Officer or his or her designee to the owner by deposit in the United States mail, addressed to the owner of record at the address as shown on the tax rolls of the County Assessor, or such other, more recent address as may be available to the City, and any agents, representatives or occupants as may be known, the Financial Officer or his or her designee shall be authorized to certify to the County Treasurer the list of delinquent assessments, giving the name of the owner of record, the number of the lot and block and the amount of assessment plus a ten-percent penalty. The certification shall be the same in substance and in the same form as required for the certification of taxes. The County Treasurer, upon the receipt of such certified list, is hereby authorized to place the same upon the delinquent tax list for the current year and to collect the assessment in the same manner as taxes are collected with such charges as may by law be made by the treasurer, and all the laws of the State for the assessment and collection of the general taxes, including the laws for the sale of property for unpaid taxes, shall apply to and have full force and effect for the collection of all such assessments. Notwithstanding the foregoing, if the offending property is not subject to taxation, the City may elect alternative means to collect the amounts due pursuant to this Article, including the commencement of an action at law or in equity and, after judgment, pursue such remedies as are provided by law.

(Ord. No. 078, 2009, § 4, 7-21-09)

Sec. 20-108. Violations and penalties.

Any person who violates any provision of this Article commits a civil infraction and is subject to the penalty provisions of Subsection 1-15(f).

(Ord. No. 198, 2006, § 25, 12-19-06; Ord. No. 085, 2008, § 7, 8-19-08; Ord. No. 078, 2009, § 4, 7-21-09)

Sec. 20-109. Reserved.

**ARTICLE IX.
ABATEMENT OF PUBLIC NUISANCES**

Sec. 20-110. Legislative purpose.

The abatement of local public nuisances for the protection of public health, safety and welfare is a matter of purely local and municipal concern. The purpose of this Article is to eliminate public nuisances. The remedies provided in this Article are designed to eliminate public nuisances by removing parcels of real property from a condition that consistently and repeatedly violates municipal law; to make property owners vigilant in preventing public nuisances on or in their property; to make them responsible for the use of their property by tenants, guests and occupants; and to otherwise deter public nuisances.

(Ord. No. 28, 2000, 4-4-00)

Sec. 20-111. Definitions.

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

Abate shall mean to bring to a halt, eliminate or, where that is not possible or feasible, to suppress, reduce and minimize.

Building shall mean a structure which has the capacity to contain, and is designed for the shelter of, man, animals or property. Building shall include any house, office building, store, warehouse or structure of any kind, whether or not such structure is permanently affixed to the ground upon which it is situated, and any trailer, semi-trailer, trailer coach, mobile home or other vehicle designed or used for occupancy by persons for any purpose.

Leasehold interest shall mean a lessor's or lessee's interest in real property under a verbal or written lease agreement.

Legal or equitable interest shall mean and include every legal and equitable interest, title, estate, tenancy and right of possession recognized by law or equity, including but not limited to freeholds, life estates, future interests, condominium rights, time-share rights, leaseholds, easements, licenses, liens, deeds of trust, contractual rights, mortgages, security interests, and any right or obligation to manage or act as agent or trustee for any person holding any of the foregoing.

Municipal Court or Court shall mean the Municipal Court of the City as established in Article VII of the Charter.

Notice of violation shall mean a written notice advising the owner(s), property managers(s), if any, and tenant(s) or occupant(s) of a parcel that the parcel, such persons and other affected persons may be subject to proceedings under this Article if the remaining number of separate violations needed to declare the parcel a public nuisance under this Article occur in or on the parcel within the required period of time. Such written notice shall be deemed sufficient if sent by certified mail to the parcel, addressed to the owner(s) by name and to "all tenants and/or occupants" and to the owner(s) and property manager(s), if any, at any different address as shown in the records of the City, including utility, licensing or permit records or as shown in the records of the Larimer County Assessor or of the County Clerk and Recorder. Each notice of violation shall be limited to one (1) separate violation.

Nuisance Abatement Officer shall mean a person appointed by the City Manager to coordinate the enforcement efforts of the City related to the provisions of this Article.

Ownership interest shall mean a fee interest in title to real property.

Parcel shall mean any lot or other unit of real property, including, without limitation, individual apartment units, or any combination of contiguous lots or units owned by the same person or persons or entity or entities. *Parcel* shall not include premises for which a license has been issued under § 3-71 of this Code and shall not include premises owned by the State Board of Agriculture and utilized by Colorado State University for the housing of students or faculty or for other educational purposes.

Person shall mean any individual, corporation, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership, limited partnership, limited liability company and body politic and corporate, and all other groups and combinations.

Real property or property shall mean land and all improvements, buildings and structures, and all estates, rights and interests, legal or equitable, in the same, including but not limited to all forms of ownership and title, future interests, condominium rights, time-share rights, easements, water rights, mineral rights, oil and gas rights, space rights and air rights.

Relative shall mean an individual related by consanguinity within the third degree as determined by common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in a step or adoptive relationship within the third degree.

Separate violation(s) shall mean any act or omission that constitutes a violation of the Code if the act or omission occurs under any of the following circumstances:

- (1) the conduct of the persons committing the violation was such as to annoy or disturb the peace of the residents in the vicinity of the parcel or of passersby on the public streets, sidewalks and rights-of-way in the vicinity of the parcel; or

- (2) the violation constitutes a public nuisance under any section of this Chapter; or
- (3) the condition of the parcel upon which the violation occurred was, at the time of the violation, injurious or harmful to the health, safety or welfare of the occupants, neighbors thereof or citizens of the City.

An ongoing and uninterrupted violation shall be deemed to have been committed only on the last day during which all the necessary elements of the violation existed; and multiple violations committed within any twenty-four-hour period of time on or in the same parcel shall be considered a single separate violation, irrespective of whether the violations are otherwise related to each other by some underlying unity of purpose or scheme.

(Ord. No. 28, 2000, 4-4-00; Ord. No. 072, 2004 § 1, 5-18-04; Ord. No. 127, 2005, § 1, 11-15-05)

Sec. 20-112. Nature of remedies.

Notwithstanding the provisions of § 1-15 of this Code, the remedies provided in this Article shall be civil and remedial in nature except that, if any person knowingly fails or refuses to abide by a temporary or permanent abatement order issued by the Municipal Court under the provisions of this Article, such person shall be guilty of a misdemeanor and, upon conviction, shall be punished by the penalties provided in § 1-15.

(Ord. No. 28, 2000, 4-4-00)

Sec. 20-113. In general.

(a) No person having an ownership or leasehold interest in any parcel, or having a contractual obligation to manage such parcel, or occupying such parcel, shall commit, conduct, promote, facilitate, permit, fail to prevent or otherwise let happen any public nuisance in or on such parcel. Such persons shall abate any public nuisance upon the parcel and prevent any public nuisance from occurring on the parcel.

(b) The Nuisance Abatement Officer or any other City code enforcement officer or police officer may, without a Court order, take reasonable steps to abate a public nuisance and prevent it from recurring as long as the same may be accomplished without entering any enclosed building upon the parcel.

(c) Except as provided below, a *public nuisance* shall mean the condition or use of any parcel within the City limits, on or in which three (3) or more separate violations have occurred within a twelve-month period or five (5) or more separate violations have occurred within a twenty-four-month period if, within thirty (30) days of each such separate violation needed to prove a public nuisance under this Article, the City has sent by certified mail to the owners, property manager(s) and tenants or occupants of the parcel, a notice of violation; provided, however, that if an owner or property manager of a parcel has filed an eviction action in a court of competent jurisdiction after receiving notice of a second violation seeking to evict from the parcel those persons whom the owner reasonably believes have been responsible for the most recent previous separate violation(s) on the parcel, then the last separate violation must have occurred no less than forty-five (45) days after the date of mailing of the last notice of violation.

- (1) Two (2) or more separate violations of the same section of the Code have occurred on the parcel within a six-month period;
- (2) The Nuisance Abatement Officer, in his or her discretion, has requested a hearing before the City Manager and has so notified the owner, occupant and/or property manager of such parcel (if known to the City); and
- (3) Any owner, tenant and/or property manager appearing at such hearing has failed to demonstrate, to the satisfaction of the City Manager, that he or she has undertaken and proceeded with due diligence to use reasonable means to avoid a recurrence of similar violations on the parcel by the present or future tenants or occupants of the parcel, and the City Manager determines that a public nuisance exists on such parcel. In making this determination, the City Manager shall be guided by, but not limited to, the criteria contained in Paragraphs 20-116(a)(1) and (2).

The City Manager shall adopt administrative regulations establishing standards to be used by the Nuisance Abatement Officer in determining whether to request such a hearing, as well as procedures for scheduling and conducting the same, which procedures shall afford the affected property owners, occupants and/or property managers reasonable

notice and an opportunity to be heard. The standards to be used by the Nuisance Abatement Officer in determining whether to request a hearing shall include, but need not be limited to, the period of time between the separate violations, the owner's or property manager's response to the first notice of violation, and any aggravating circumstances related to either violation. If the owner, tenant and property manager all fail to appear at such hearing, after reasonable notice, or if the City Manager determines, after such hearing, that a public nuisance exists on a parcel pursuant to the provisions of this Subsection, the City may commence a public nuisance action under § 20-115 on the basis of the two (2) separate violations and no additional separate violations. Nothing herein shall be construed to relieve the City of the obligation to send, by certified mail, notices of the two (2) violations as required above. (Ord. No. 28, 2000, 4-4-00; Ord. No. 072, 2004, §2, 5-18-04; Ord. No. 127, 2005, § 2, 11-15-05)

Sec. 20-114. Procedures in general.

(a) Pursuant to Article XX, Section 6, and Article VI, Section 1 of the Colorado Constitution, and Article VII, Section 1 of the Charter, the Municipal Court is hereby granted the jurisdiction, duties and powers to hear and decide all causes arising under this Article, and to provide the remedies specified herein.

(b) Any civil action commenced under this Article shall be in the nature of a special statutory proceeding. All issues of fact and law in such civil actions shall be tried to the Court without a jury. No equitable defenses may be set up or maintained in any such action except as provided in Subsection 20-116(a) below. Injunctive remedies under this Article may be directed toward the parcel or toward a particular person.

(c) Public nuisances under the provisions of this Article shall be strict liability violations. No culpable mental state of any type or degree shall be required to establish a public nuisance under this Article or to obtain Court approval for the remedies provided under this Article except that, if a separate violation used by the City to establish the existence of a public nuisance has not been previously adjudicated, all of the elements of such separate violations, including any culpable mental state required for the commission of such separate violations, must be established by the City by a preponderance of the evidence at the trial on the merits of any civil action commenced under this Article.

(d) Proceedings under this Article shall generally be governed by the Colorado Rules of County Court Civil Procedure unless this Article provides a more specific rule; provided, however, that with respect to the rules related to injunctions, Rule 65 of the Colorado Rules of Civil Procedure shall control rather than Rule 365 of the Colorado Rules of County Court Civil Procedure. Where this Article, the Colorado Rules of Civil Procedure or the Colorado Rules of County Court Civil Procedure fail to state a rule of decision, the Court shall first look to the Public Nuisance Abatement Act, § 16-13-301 et seq., C.R.S., and the cases decided thereunder.

(e) Actions under this Article shall be filed by the Office of the City Attorney for the City.

(f) In the event that the City pursues any criminal penalties provided in any other section of this Code, any other civil remedies or the remedies of any administrative action, the remedies in this Article shall not be delayed or held in abeyance pending the outcome of any proceedings in the criminal, civil or administrative action, or any action filed by any other person, unless all parties to the action under this Article so stipulate.

(g) Actions under this Article may be consolidated with another civil action under this Article involving the same parcel of real property. Actions under this Article shall not be consolidated with any other civil or criminal action except upon the stipulation of all parties. No party may file any counterclaim, cross-claim, third-party claim or set-off of any kind in any action under this Article.

(Ord. No. 28, 2000, 4-4-00)

Sec. 20-115. Posting of notice of commencement of public nuisance actions.

(a) *Posting of notice.*

(1) Upon service of the verified complaint or complaint by affidavit referred to below, the Nuisance Abatement Officer shall post a notice at some prominent place on the parcel. The posted notice shall state that the parcel

has been identified as the location of an alleged public nuisance and that a civil action under this Article has been filed.

- (2) Agents of the City are authorized to enter upon the parcel for the purpose of posting these notices and to affix the notice in any reasonable manner to buildings and structures.
- (3) The City shall not be required to post or mail any notice specified herein whenever it determines that any of the following conditions exist:
 - a. The public nuisance poses an immediate threat to public safety;
 - b. Notice would jeopardize a pending investigation of criminal or public nuisance activity, confidential informants or other police activity; or
 - c. Any other emergency circumstance exists.

(b) An action under this Article shall be commenced by the filing of a verified complaint or a complaint verified by an affidavit, which may be accompanied by a motion for a temporary abatement order, through the Office of the City Attorney. No such action shall be commenced unless each of the separate violations asserted in support of such action has resulted in the issuance of a summons and complaint charging at least one (1) person responsible for such separate violation with the commission of the same.

- (1) The parties-defendant to an action commenced under this Article and the persons liable for the remedies in this Article may include the parcel of real property itself, any person owning or claiming any ownership or leasehold interest in the parcel, all tenants and occupants of the parcel, all managers and agents for any person claiming an ownership or leasehold interest in the parcel, any person committing, conducting, promoting, facilitating or aiding in the commission of a public nuisance and any other person whose involvement may be necessary to abate the nuisance, prevent it from recurring or to carry into effect the Court's orders. None of these parties shall be deemed necessary or indispensable parties. Any person holding any legal or equitable interest in the parcel who has not been named as a party-defendant may intervene as a party-defendant. No other person may intervene.
- (2) The parties-defendant shall be served as provided in the Colorado Rules of County Court Civil Procedure for other civil actions except as otherwise provided in this Article.
- (3) The summons, complaint and, if applicable, temporary abatement order shall be served upon the real property itself by posting copies of the same in some prominent place on the parcel.
- (4) The Nuisance Abatement Officer or any other City code enforcement officer or police officer may serve the summons, complaint and, if applicable, the motion for temporary abatement.

(Ord. No. 28, 2000, 4-4-00; Ord. No. 127, 2005, § 3, 11-15-05)

Sec. 20-116. Effect of abatement efforts; defense to action.

(a) If a person named as a party-defendant is the owner of a parcel of real property and is leasing the parcel to one (1) or more tenants, or the person named has been hired by the owner of the parcel to manage and lease the parcel, and the separate violations which constitute the alleged public nuisance were committed by one (1) or more of the tenants or occupants of the parcel, it shall be a defense to an action under this Article that said person has:

- (1) Evicted, or attempted to evict by commencing and pursuing with due diligence appropriate court proceedings, all of the tenants and occupants of the parcel that committed each of the separate violations that constitute the alleged public nuisance; and
- (2) Has, considering the nature and extent of the separate violations, undertaken and pursued with due diligence reasonable means to avoid a recurrence of similar violations on the parcel by the present and future tenants or occupants of the parcel.

(b) If, in the judgment of the Nuisance Abatement Officer, a person who has received a notice of violation has established sufficient grounds to assert a defense to an action under Subsection (a) above, the separate violation which

was the subject of the notice of violation shall no longer be considered a separate violation within the meaning of this Article. Nothing herein shall be construed to prohibit the introduction of evidence of said separate violation at a subsequent court proceeding, if a public nuisance action is commenced on the basis of additional separate violations, for the purpose of determining whether the defendants named in such action have undertaken and pursued with due diligence reasonable means to avoid a recurrence of similar violations on the parcel of real property by the present and future tenants or occupants of the parcel.

(c) Except as provided in Subsection (a) above, the fact that a defendant took steps to abate the public nuisance after receiving the notice specified in § 20-115 above or any other notice shall not constitute a defense to an action under this Article.

(Ord. No. 28, 2000, 4-4-00)

Sec. 20-117. Abatement orders.

(a) *Issuance and effect of temporary and permanent abatement orders.* The issuance of temporary or permanent abatement orders under this Article shall be governed by the provisions of Rule 65 of the Colorado Rules of Civil Procedure, pertaining to temporary restraining orders, preliminary injunctions and permanent injunctions, except to the extent of any inconsistency with the provisions of this Article, in which event the provisions of this Article shall prevail. Temporary abatement orders provided for in this Article shall go into effect immediately when served upon the property or party against whom they are directed. Permanent abatement orders shall go into effect as determined by the Court. No bond or other security shall be required of the City upon the issuance of any temporary abatement order.

(b) *Form and scope of abatement orders.* Every abatement order under this Article shall set forth the reasons for its issuance; shall be reasonably specific in its terms; shall describe in reasonable detail the acts and conditions authorized, required or prohibited; and shall be binding upon the parcel, the parties to the action, their attorneys, agents and employees, and any other person named as a party-defendant in the public nuisance action and served with a copy of the order.

(c) *Substance of abatement orders.* Temporary or permanent abatement orders entered under this Article shall be narrowly tailored so as to address the particular kinds of separate violations that form the basis of the alleged public nuisance. Such orders may include:

- (1) Orders requiring any parties-defendant to take steps to abate the public nuisance;
- (2) Orders authorizing the Nuisance Abatement Officer or any other City code enforcement officer or police officer to take reasonable steps to abate the public nuisance activity and prevent it from recurring, considering the nature and extent of the separate violations;
- (3) Orders requiring certain named individuals to stay away from the parcel at all times;
- (4) Orders reasonably necessary to access, maintain or safeguard the parcel; and/or
- (5) Orders reasonably necessary for the purposes of abating the public nuisance or preventing the public nuisance from occurring or recurring; provided, however, that no such order shall require the seizure of, the forfeiture of title to, or the temporary or permanent closure of, a parcel, or the appointment of a special receiver to protect, possess, maintain or operate a parcel.

(d) *Temporary abatement orders.*

- (1) The purpose of a temporary abatement order shall be to temporarily abate an alleged public nuisance pending the final determination of a public nuisance. A temporary abatement order may be issued by the Court pursuant to the provisions of this Section even if the effect of such order is to change, rather than preserve, the status quo.

- (2) At any hearing on a motion for a temporary abatement order, the City shall have the burden of proving that there are reasonable grounds to believe that a public nuisance occurred in or on the parcel and, in the case of a temporary order granted without notice to the parties-defendant, that such order is reasonably necessary to avoid some immediate, irreparable loss, damage or injury. In determining whether there are such reasonable grounds, the Court may consider whether an affirmative defense may exist under Subsection 20-116(a) above.
- (3) At any hearing on a motion for a temporary abatement order or a motion to vacate or modify a temporary abatement order, the Court shall temper the rules of evidence and admit hearsay evidence unless the Court finds that such evidence is not reasonably reliable and trustworthy. The Court may also consider the facts alleged in the verified complaint or in any affidavit submitted in support of the complaint or motion for temporary abatement order.

(e) *Permanent abatement orders.*

- (1) At the trial on the merits of a civil action commenced under this Article, the City shall have the burden of proving by a preponderance of the evidence that a public nuisance occurred on or in the parcel identified in the complaint. At such trial, the City must also prove, by a preponderance of the evidence, any separate violations asserted as grounds for the public nuisance action that have not been previously adjudicated. The Colorado Rules of Evidence shall govern the introduction of evidence at all such trials.
- (2) Where the existence of a public nuisance is established in a civil action under this Article after a trial on the merits, the Court shall enter a permanent abatement order requiring the parties-defendant to abate the public nuisance and take specific steps to prevent the same and other public nuisances from occurring or recurring on the parcel or in using the parcel.

(Ord. No. 28, 2000, 4-4-00)

Sec. 20-118. Motion to vacate or modify temporary abatement orders.

(a) *General.* At any time a temporary abatement order is in effect, any party-defendant or any person holding any legal or equitable interest in any parcel governed by such an order may file a motion to vacate or modify said order. Any motion filed under this Subsection (a) shall state specifically the factual and legal grounds upon which it is based, and only those grounds may be considered at the hearing. The Court shall vacate the order if it finds by a preponderance of the evidence that there are no reasonable grounds to believe that a public nuisance was committed in or on the parcel. The Court may modify the order if it finds by a preponderance of the evidence that such modification will not be detrimental to the public interest and is appropriate, considering the nature and extent of the separate violations.

(b) *Continuance of hearing.* The Court shall not grant a continuance of any hearing set under this Section unless all the parties so stipulate.

(c) *Consolidation of hearing with other proceedings.* If all parties so stipulate, the Court may order the trial on the merits to be advanced and tried with the hearing on these motions.

(Ord. No. 28, 2000, 4-4-00)

Sec. 20-119. Civil judgment.

In any case in which a public nuisance is established, in addition to a permanent abatement order, the Court may impose a separate civil judgment on every party-defendant who committed, conducted, promoted, facilitated, permitted, failed to prevent or otherwise let happen any public nuisance in or on the parcel that is the subject of the public nuisance action. This civil judgment shall be for the purpose of compensating the City for the costs it incurs in pursuing the remedies under this Article.

(Ord. No. 28, 2000, 4-4-00)

Sec. 20-120. Supplementary remedies for public nuisances.

In any action filed under the provisions of this Article, in the event that any one (1) of the parties fails, neglects or refuses to comply with an order of the Court, the Court may, upon the motion of the City, in addition to or in the alternative to the remedy of contempt and the possibility of criminal prosecution, permit the City to enter upon the parcel of real property and abate the nuisance, take steps to prevent public nuisances from occurring or perform other acts required of the defendants in the Court's orders.

(Ord. No. 28, 2000, 4-4-00)

Sec. 20-121. Stipulated alternative remedies.

(a) The City and any party-defendant to an action under this Article may voluntarily stipulate to orders and remedies, temporary or permanent, that are different from those provided in this Article.

(b) The Public Hearing Officer may accept such stipulations for alternative remedies and may order compliance therewith only when the responding parties admit to the existence of a public nuisance upon the parcel.

(c) The Court may accept such stipulations for alternative remedies and make such stipulations an order of the Court, enforceable as an order of the Court.

(Ord. No. 28, 2000, 4-4-00; Ord. No. 127, 2005, § 4, 11-15-05)

Sec. 20-122. Remedies under other laws unaffected.

Nothing in this Article shall be construed as: (1) limiting or forbidding the City or any other person from pursuing any other remedies available at law or in equity, or (2) requiring that evidence or property seized, confiscated, closed, forfeited or destroyed under other provisions of law be subjected to the special remedies and procedures provided in this Article.

(Ord. No. 28, 2000, 4-4-00)

Sec. 20-123. Limitation of actions.

Actions under this Article shall be filed no later than one (1) year after the public nuisance or the last in a series of acts constituting the public nuisance occurs. This limitation shall not be construed to limit the introduction of evidence of separate violations that occurred more than one (1) year before the filing of the complaint for the purpose of establishing the existence of a public nuisance or when relevant to show a pattern of conduct or for any other purpose.

(Ord. No. 28, 2000, 4-4-00; Ord. No. 127, 2005, § 5, 11-15-05)

Sec. 20-124. Effect of property conveyance.

When title to a parcel is conveyed from one (1) person to another, any separate violation existing at the time of the conveyance which could be used under this Article to prove that a public nuisance exists with respect to such parcel, shall not be so used unless a reason for the conveyance was to avoid the parcel being declared a public nuisance under this Article. It shall be a rebuttable presumption that a reason for the conveyance of the parcel was to avoid the parcel from being declared a public nuisance under this Article if: (1) the parcel was conveyed for less than fair market value; (2) the parcel was conveyed to an entity or entities controlled directly or indirectly by the person conveying the parcel; or (3) the parcel was conveyed to a relative(s) of the person conveying the parcel.

(Ord. No. 28, 2000, 4-4-00)

Sec. 20-125. Severability.

In the event that any provision of this Article is declared to be unconstitutional or invalid for any reason, the remaining provisions of this Article shall be upheld and enforced unless the remaining provisions would create an unreasonable or unjust result.

(Ord. No. 28, 2000, 4-4-00)