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**ARTICLE I.  
IN GENERAL**

**Secs. 23-1—23-15. Reserved.**

**ARTICLE II.  
EXCAVATIONS ON CITY PROPERTY\***

**Sec. 23-16. Permit required; exception in case of emergency.**

(a) It shall be unlawful for any person to make or cause or permit to be made any excavation or opening in or under the surface or pavement of any City-owned property or any street, alley or sidewalk in the City without first having obtained and having in force a permit.

(b) In the case of an actual emergency, it shall be lawful to make such excavation without a permit in order to repair utilities if a present danger to life or property exists, upon condition that an engineering inspector be notified of any such emergency excavation within twenty-four (24) hours of the commencement of work.  
(Code 1972, § 95-1; Ord. No. 181, 1998, § 1, 10-20-98; Ord. No. 004, 2007, § 2, 2-6-07)

**Sec. 23-17. Application for permit; contents and conditions.**

Any person desiring to obtain a permit for such excavations shall make written application therefor to the City Engineer on the form prepared and provided by the City.  
(Code 1972, § 95-2; Ord. No. 181, 1998, § 1, 10-20-98)

**Sec. 23-18. Fees for permits, inspections and pavement impacts.**

(a) The applicant for an excavation permit shall remit to the City a nonrefundable application fee in such amount as may be established by the City Manager pursuant to Chapter 7.5, Article I of this Code.

(b) If the application for the excavation permit is approved, the applicant shall, prior to the issuance of said permit, remit to the City a fee for inspection of the work to be completed by the applicant in such amount as may be established by the City Manager pursuant to Chapter 7.5, Article I of this Code.

(c) In addition, prior to the issuance of the excavation permit, the applicant shall remit to the City a pavement impact fee in an amount sufficient to compensate the City for the cost reasonably calculated to be incurred by the City because of the reduction in pavement life caused by the excavation and subsequent patching of the pavement. Said fee shall be in the amount specified in Chapter 7.5, Article IV of this Code.  
(Code 1972, § 95-3; Ord. No. 153, 1989, 12-19-89; Ord. No. 181, 1998, § 1, 10-20-98)

**Sec. 23-19. Bond and insurance.**

Every applicant for an excavation permit shall comply with the bonding and insurance requirements set forth in §§ 15-363 and 15-364 of this Code.  
(Code 1972, § 95-4; Ord. No. 181, 1998, § 1, 10-20-98)

**Sec. 23-20. Requirements for performance of work.**

(a) Anyone making an excavation by virtue of a permit issued under this Article shall do the work in accordance with the current version of the "Larimer County Urban Area Street Standards."

(b) Occupants of neighboring properties which will be directly affected by the work shall be notified in writing by the applicant at least twenty-four (24) hours in advance of commencement of the work as to the nature and extent thereof.

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\* **Cross-references**—Plumbing standards, § 5-125, et seq.; cable communications systems, Ch. 6; utility line installations, § 26-671, et seq.

(c) If the permit holder or any agent or representative thereof causes damage to any public infrastructure, including, without limitation, any surface pavers, flagstones or other stone or concrete surfaces, planters, street lights, decorative lights or canopies, such damage shall be promptly repaired using the same kind, quality, color, serviceability and material composition aspects as the infrastructure damaged, unless otherwise expressly agreed to by the City in writing. Paver repair and replacement in downtown alleys shall comply with the City's specific requirements for pavers.

(Code 1972, § 95-5; Ord. No. 163, 1986, § 95-6(B), 11-4-86; Ord. No. 181, 1998, § 1, 10-20-98; Ord. No. 186, 2000, § 2, 1-2-01; Ord. No. 059, 2010, § 1, 6-1-10)

**Sec. 23-21. Permittee liable in case of nonconformance.**

(a) If any permit holder fails to do anything required hereunder, the City Engineer may cause the required work to be done by others, and the cost shall be charged to the holder of the excavation permit and the permit holder shall be liable for such cost.

(b) The City Engineer shall notify the permittee of any defects in any excavation made pursuant to the provisions of this Article and if action to correct such defects is not taken within twenty-four (24) hours of notification, the City Engineer may take action on the performance bond to correct any such defects and deny issuance of any additional permits until another bond has been filed as provided in Chapter 15, Article XIII of this Code.

(Code 1972, § 95-11; Ord. No. 181, 1998, § 1, 10-20-98)

**Sec. 23-22. Permittee liable for injuries to person or property.**

Every permit holder acting under a permit issued pursuant to this Article shall be responsible to anyone for any injury to person or property by reason of the work done under the permit and shall indemnify and hold the City harmless from any expenses, costs, claims or other charges or fees arising out of such work. The permit holder shall be responsible for adequately protecting the work, the surrounding property and the public and shall adequately safeguard the work regardless of whether any specific requirements in connection with the work are made by the City Engineer.

(Code 1972, § 95-12; Ord. No. 181, 1998, § 1, 10-20-98)

**Secs. 23-23—23-45. Reserved.**

**ARTICLE III.  
OBSTRUCTIONS AND ENCROACHMENTS\***

DIVISION 1. GENERALLY

**Sec. 23-46. Limitations.**

No encroachment or obstruction whatever other than that provided for by law or by this Article or some other City ordinance shall be made or placed upon any City property or any street, alley or sidewalk in the City.

(Code 1972, § 95-15; Ord. No. 004, 2007, § 3, 2-6-07)

**Secs. 23-47—23-60. Reserved.**

DIVISION 2. OBSTRUCTIONS

**Sec. 23-61. Permit required; application.**

(a) Any person desiring to occupy any parking space on a public street in the City in connection with the maintenance, erection, construction, remodeling or demolition of any building or improvement on property abutting thereto shall make written application to the Planning Development and Transportation Director (hereafter in this Division, the "Director") for an obstruction permit on a form prepared and provided by the City.

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\* **Cross-references**—Plumbing standards, § 5-125, et seq.; cable communications systems, Ch. 6; refuse and rubbish accumulation prohibited, § 12-18.

(b) Any person desiring to occupy any parking space on a public street in the City for any purpose not specified in Subsection (a) above shall make written application to the Director for such obstruction permit on forms prepared and provided by the City, subject to the following restrictions:

- (1) Handicapped parking spaces and adjacent loading areas shall not be obstructed.
- (2) The permit shall not be valid for more than four (4) consecutive days and shall not be granted for consecutive time periods.
- (3) An applicant shall not apply for more than two (2) permits in a calendar year.
- (4) No parking space shall be obstructed overnight.
- (5) The permit shall apply only to parking spaces that abut property owned by the applicant unless the owner of the property has consented to the issuance of the permit as provided in Paragraph 23-62(10) or unless the City Manager determines that it is in the best interests of the health, safety or welfare of the City and its citizens that the permit be issued for parking spaces adjacent to property not owned by the applicant.
- (6) The provisions of this Subsection (b) shall not apply to special events for which a permit is required under § 23.5-3 of this Code.

(c) Application for, and approval of, the modification of a permit shall be required before any change is made in the size or configuration of the area that is the subject of a permit issued under this Section and/or any change is made in the nature, purpose or duration of the obstruction that was authorized by the permit.

(Code 1972, § 95-16(A); Ord. No. 004, 2007, § 4, 2-6-07, Ord. No. 082, 2007, 8-21-07; Ord. No. 059, 2010, § 2, 6-1-10)

#### **Sec. 23-62. Contents of application.**

The application shall contain the following information:

- (1) the applicant's name, address, email address (if available) and telephone number;
- (2) the parking spaces that are the subject of the permit;
- (3) the location of the proposed obstruction, including the address of the property abutting the area or space which is the subject of the permit;
- (4) the type of obstruction and the purpose of the obstruction;
- (5) the period of time that the obstruction will be in place, including date and time;
- (6) a statement that the applicant agrees to abide by the provisions of this Division;
- (7) a description of the proposed obstruction sufficient to fully inform the City Manager of the character and physical attributes of the obstruction and the Director to perform a complete and competent examination of the application under the criteria contained in Subsection 23-83(a);
- (8) evidence of the applicant's ability and willingness to provide liability insurance insuring the City in a sum not less than one million dollars (\$1,000,000), proof of which insurance shall be provided to the City prior to issuance of the permit, unless the requirement to provide such insurance is waived by the Director;
- (9) a statement that the applicant agrees to be responsible for barricading the parking spaces in a manner acceptable to the Director;
- (10) a statement that the applicant is the fee owner of the real property abutting the parking space(s) for which the obstruction permit is sought, or, if the applicant is not the fee owner of such real property, then the abutting property owner's written consent to the obstruction; and

(11) a statement that the applicant agrees to be bound by all of the provisions of this Article and the rules and regulations established by the City, including, without limitation, payments of fees, satisfying additional permit conditions, and obtaining any additional permits from other departments or agencies, as necessary.  
(Code 1972, § 95-16(A), (B)(1); Ord. No. 004, 2007, § 5, 2-6-07, Ord. No. 082, 2007, 8-21-07; Ord. No. 059, 2010, § 3, 6-1-10)

**Sec. 23-63. Fees and conditions.**

(a) At the time of issuance of a permit hereunder, and at the time of any renewal or modification of such permit, the applicant shall pay an application fee and an additional fee per parking space per day to help defray the costs incurred by the City in processing and administering the permit program, including, without limitation, the cost of enforcement and the cost of inspection of the spaces that are the subject of the application; provided, however, that the Director may waive part or all of the fees for governmental agencies. The amount of said fees shall be determined and established by the City Manager, pursuant to the provisions of Article I of Chapter 7.5.

(b) The Director may condition the issuance and use of an obstruction permit on such requirements as are reasonably necessary to protect the safety of persons and property and the use and control of vehicular and pedestrian traffic, including limitations on time, place and allowed activities; payment of fees; obtaining any additional permits from other departments or agencies as necessary; and providing any fencing or barriers that the Director requires in order to protect pedestrian and vehicular traffic from the obstruction and associated dangers. If required, the permit holder shall build and maintain a good and substantial, protected walkway around the obstruction. The permit holder shall adequately light and mark the obstruction to protect pedestrian and vehicular traffic.  
(Code 1972, § 95-16(B)(1), (2); Ord. No. 059, 2010, § 4, 6-1-10)

**Sec. 23-64. Term of permit; renewal and revocation.**

(a) A permit may be issued only for the period of time necessary to complete the purpose for which the permit was issued. No permit issued under Subsection 23-61(a) shall be issued for more than ninety (90) days; provided, however, that the Director may renew any such permit for one (1) or more additional ninety-day periods upon written application and payment of the applicable renewal fee. The term of a permit issued under Subsection 23-61(b) shall be limited in accordance with Paragraphs (2) and (3) thereof.

(b) Any permit issued under this Article may be denied or revoked by the Director if the holder fails to obtain any other necessary permits, fails to conduct the activity in compliance with the terms and conditions of the permit, violates any of the provisions of this Article, state law, local ordinances or the applicable rules and regulations of the City, or if the work allowed by the permit unduly interferes with pedestrian or vehicular traffic or otherwise poses a threat to the health and safety of the public.  
(Code 1972, § 95-17, Ord. No. 082, 2007, 8-21-07; Ord. No. 059, 2010, § 5, 6-1-10)

**Sec. 23-65. Adequate drainage and access to fire hydrants required.**

Any person holding a permit issued under this Article shall take such measures as may be required to insure that adequate drainage is maintained around the obstruction. All building materials, rubbish and other obstructions shall be kept clear of fire hydrants and stand pipes and ready access shall be provided to them at all times.  
(Code 1972, § 95-20; Ord. No. 059, 2010, § 8, 6-1-10)

**Sec. 23-66. Removal of obstruction upon completion of work.**

Upon completion of the work or activity, the permit holder shall remove all obstructions, materials, debris and rubbish prior to the expiration of the permit term.  
(Code 1972, § 95-20; Ord. No. 059, 2010, § 9, 6-1-10)

**Sec. 23-67. Permit holder liable in case of nonconformance.**

If any permit holder fails to comply with the requirements of §§ 23-65 or 23-66 of this Article, or fails to perform any work under the permit, the Director may cause the work to be done and compliance accomplished, and the cost

shall be charged to the holder of the permit and the holder of the permit shall be liable for such costs. The failure of any permit holder to comply with the terms and conditions of the permit or to vacate the permitted premises upon revocation or expiration of the permit, whether for cause or without cause, shall be deemed to constitute a violation of the Code and shall be punishable in accordance with § 1-15.

(Code 1972, § 95-21, Ord. No. 082, 2007, 8-21-07; Ord. No. 059, 2010, § 10, 6-1-10)

**Secs. 23-68—23-80. Reserved.**

### DIVISION 3. ENCROACHMENTS

#### **Sec. 23-81. Permit required; application.**

Any person desiring to place or erect a building, fence, barrier, post or other encroachments within any City-owned property or any street, avenue, alley, sidewalk, highway or public right-of-way in the City shall file a written application for a permit upon a form prepared and provided by the City. The provisions of this Division shall not apply to special events as defined in § 23.5-2 of this Code or to parking spaces as regulated by § 23-61, et seq., above. (Code 1972, § 95-22; Ord. No. 11, 2001, § 1, 2-6-01; Ord. No. 048, 2004, § 1, 4-6-04; Ord. No. 210, 2006, § 1, 1-16-07; Ord. No. 059, 2010, § 11, 6-1-10)

#### **Sec. 23-82. Contents of application.**

(a) The application for a permit shall contain the following:

- (1) The applicant's name, address and telephone number;
- (2) The location of the proposed encroachment, obstruction or other structure;
- (3) The type of encroachment, obstruction or other structure;
- (4) The purpose of the proposed encroachment, obstruction or other structure;
- (5) A statement that the applicant agrees to abide by the provisions of this Division.
- (6) A description of the proposed encroachment sufficient to fully inform the City Manager of the character and physical attributes of the encroachment as necessary for the City Manager to perform a complete and competent investigation of the application under the criteria contained in Subsection 23-83(a).
- (7) The anticipated duration (term) of the proposed encroachment.
- (8) Evidence of the applicant's ability and willingness to provide liability insurance insuring the City in a sum not less than one million dollars (\$1,000,000.), proof of which insurance shall be provided to the City prior to issuance of the permit, unless the requirement to provide such insurance is waived by the City Manager.

(b) If the proposed encroachment is for the purpose of serving food and/or beverages for consumption within the encroachment area as an extension, accessory or complement to an adjoining business, the application shall also contain:

- (1) Evidence of the applicant's ability and willingness to provide liability insurance insuring the City in a sum not less than one million dollars (\$1,000,000.), proof of which insurance shall be provided to the City prior to issuance of the permit; and
- (2) A statement that the applicant is the fee owner of the real property directly adjoining the property upon which the encroachment is sought, or, if the applicant is not the fee owner of such real property, then the adjoining property owner's written consent to the encroachment.

(Code 1972, § 95-22; Ord. No. 11, 2001, § 2, 2-6-01; Ord. No. 158, 2001, 11-6-01; Ord. No. 048, 2004, § 2, 4-6-04; Ord. No. 210, 2006, § 2, 1-16-07)

**Sec. 23-83. Investigation of application information; fee; permit modification and revocation.**

(a) The application shall be made to the City Manager. The City Manager shall make or cause to be made an investigation of the information contained in the application and prior to the issuance of a permit. In order for an application for an encroachment for the purpose of serving food and/or beverages as referenced in Subsection 23-82(b) to be approved, the applicant for the proposed encroachment, obstruction or other structure must be the fee owner of the real property directly adjoining the property upon which the encroachment is sought, or must have obtained and submitted with the application the written consent of such fee owner. In order for an application for an encroachment for wireless telecommunication equipment or facilities (as those terms are defined in Article 5 of the Land Use Code) to be approved, the applicant must show to the satisfaction of the City Manager that the applicable criteria contained in Section 3.8.13 of the Land Use Code have been met. Additionally, the proposed encroachment, obstruction or other structure shall not, in the judgment of the City Manager, constitute a nuisance or destroy or impair the use of the property by the public or constitute a traffic hazard. No permit shall be issued unless the City Manager determines that the foregoing criteria have been met. In investigating the application, the City Manager may consult with such City departments as he or she deems necessary to determine whether the application should be approved. If the City Manager determines that the property proposed for the encroachment permit is not needed for use by the public and that all submittal requirements of the application are complete, the City Manager may issue the permit for such duration and upon such other terms and conditions as the City Manager determines are necessary to protect the public welfare. As a condition of the issuance of any permit for the purpose of serving food and/or beverages, as referenced in Subsection 23-82(b), the permittee shall annually provide to the City Manager proof of uninterrupted liability insurance coverage in the amount required in said Subsection, naming the City as an insured party.

(b) Modification of a permit shall be required of the applicant if there is any change in the size or configuration of the area that is the subject of the permit and/or any change to any structure that was required or specifically authorized by the City upon the issuance of the permit.

(c) At the time of issuance of a permit hereunder, and at the time of any modification of such permit, the applicant shall pay a fee to help defray the costs incurred by the City in processing and administering the permit including, without limitation, the cost of inspecting the premises that are the subject of the application. The amount of said fee shall be determined by the City Manager, pursuant to the provisions of Article I of Chapter 7.5.

(d) Encroachment permits issued pursuant to this Division are authorized under Article XI, Section 10 of the Charter. Accordingly, any such permit shall be revocable at the pleasure of the City Council or the City Manager, whether or not such right to revoke is expressly reserved in such permit. The applicant shall not be entitled to the refund of any fee upon such revocation.

(e) If the encroachment is for newsracks, the City Manager's decision whether to issue or deny issuance of the permit shall be made within fifteen (15) days following the date that a complete application was submitted to the City. With the exception of newsracks, no privately owned, unattended displays designed or intended to convey a meaning or message shall be permitted as encroachments under this Division.

(Code 1972, § 95-23; Ord. No. 11, 2001, § 3, 2-6-01; Ord. 158, 2001, 11-6-01; Ord. No. 210, 2006, § 3, 1-16-07)

**Sec. 23-84. Notice to remove encroachment.**

(a) Whenever any encroachment, obstruction or structure is made or located contrary to the terms of the permit or without a permit or at such time as the permit is revoked as provided for in this Division, the City Manager shall give notice to the person who made or located such encroachment, obstruction or structure or caused or permitted it to be done or who owns or controls the premises with which such encroachment, obstruction or structure is connected to remove such encroachment, obstruction or other structure. It shall be removed within ten (10) days after notice.

(b) It shall be unlawful for any person to continue any encroachment, obstruction or other structure for a period of ten (10) days after receipt of the notice provided for in this Section.

(Code 1972, § 95-24; Ord. No. 11, 2001, § 4, 2-6-01)

**Sec. 23-85. Noncompliance with notice; removal of encroachment.**

(a) If any notice given under § 23-84 is not complied with, the City Manager is hereby authorized and empowered to cause the removal of the encroachment, obstruction or structure.

(b) Upon completion of such removal, the City Manager shall certify to the Financial Officer the cost of such removal, and the Financial Officer shall send by certified mail addressed to the owner of the premises with which the obstruction is connected a notice of such removal and the cost incurred for such work, together with a statement that the cost of the work will be assessed against the owner's lot, tract or parcel of land if such cost is not paid to the City within ten (10) days after mailing of such notice.

(c) If such person fails to make payment within the ten-day period, the City shall make the assessment by ordinance against the lot, tract or parcel of land in connection with which the encroachment, obstruction or structure was made, and such assessment shall be certified to the County Treasurer for the purpose of having it placed upon the tax rolls and collected in the manner provided for the collection of general taxes.

(Code 1972, § 95-25)

**Sec. 23-86. Penalty.**

The failure of any permittee to comply with the terms of such permit or to vacate the permitted premises upon revocation of the permit, whether for cause or without cause, shall be deemed to constitute a violation of the Code and shall be punishable in accordance with § 1-15.

(Ord. No. 11, 2001, § 5, 2-6-01)

**Secs. 23-87—23-89. Reserved.**

DIVISION 4. NEIGHBORHOOD ENTRY SIGNS

**Sec. 23-90. Definitions.**

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

*Qualified neighborhood organization* shall mean an organization which: (1) represents a neighborhood area with identifiable geographic boundaries; (2) represents a neighborhood area having at least two hundred (200) existing households within its geographic boundaries; (3) has at least one (1) elected representative; and (4) makes membership in the organization available to all residents and property owners within the geographic boundaries of the neighborhood.

(Ord. No. 193, 1999, § 1, 1-4-00)

**Sec. 23-91. Permits.**

Any qualified neighborhood organization desiring to erect a neighborhood entry sign upon any City property or any street, alley or sidewalk in the City shall file a written application for a permit upon a form prepared and provided by the City. Only established, qualified neighborhood organizations may apply for and obtain a permit for neighborhood entry signs. Permits shall not be issued under this Division to residential developments that are being processed for development review and approval under the Land Use Code or the Transitional Land Use Regulations.

(Ord. No. 193, 1999, § 1, 1-4-00; Ord. No. 004, 2007, § 8, 2-6-07)

**Sec. 23-92. Contents of application.**

The application for a neighborhood entry sign permit shall contain all information required on the form provided by the City including, without limitation, the following:

- (1) The name, address and telephone number of the qualified neighborhood organization and the person to be contacted representing said organization.

- (2) The names of the streets or other identifiable features that define the boundary of the neighborhood.
  - (3) The proposed location of the neighborhood entry sign or signs (not to exceed four [4]) including the names of the intersections and the direction of travel.
  - (4) A detailed description of the sign(s) proposed to be used for neighborhood entry (or entries) including the size, shape, types of materials used in the construction of the sign structure (including the sign blank and the legend), color and types of mount. This description shall include a detailed drawing of each proposed sign showing the exact sign placement.
  - (5) A statement that the applicant agrees to abide by the provisions of this Division.
- (Ord. No. 193, 1999, § 1, 1-4-00)

**Sec. 23-93. Standards and criteria.**

All neighborhood signs permitted pursuant to this Division shall conform to the following standards and criteria:

- (1) Neighborhood entry signs in, adjoining or adjacent to a residential area shall be harmonious with and reflect the residential character of the area.
- (2) One (1) single-faced sign, one (1) double-faced sign or two (2) single-faced signs bearing identical copy (with no sign face being larger than twenty-four [24] square feet) may be permitted to identify the name of a neighborhood at each of the neighborhood's major entrances.
- (3) The top of any such sign shall be no more than five (5) feet above ground level.
- (4) The word "neighborhood" must be included in the sign copy.
- (5) The sign shall not have internal or external lighting.
- (6) A maximum of four (4) major entrances into a neighborhood may be permitted for signs for any qualified neighborhood organization.
- (7) The applicant must show to the satisfaction of the City that it has formally established an organization which is ready, willing and able to maintain the sign. The sign must, at all times, be kept in a well-maintained and proper condition.
- (8) The following sight distances must be maintained for any neighborhood entry sign in the right-of-way:

<i>Type of Street</i>	<i>Safe Sight Distance (feet)</i>
Arterial	500
Collector	400
Local	300

- (9) The cost of the design, installation and maintenance of the neighborhood entry sign or signs shall be borne by the qualified neighborhood organization.
  - (10) Prior to installation of any neighborhood entry sign, all "utility locates" must be performed.
- (Ord. No. 193, 1999, § 1, 1-4-00)

**Sec. 23-94. Investigation of application; permit fee; revocation.**

(a) The application for a permit for a neighborhood entry shall be made to the City Engineer. The City Engineer shall make or cause to be made an investigation of the information contained in the application and prior to the issuance of a permit shall determine that the applicant is a qualified neighborhood organization and that the proposed neighborhood sign does not constitute a nuisance or destroy or impair the use of the right-of-way or any City property

by the public or constitute a traffic hazard and complies with all standards and criteria of this Division. In investigating whether the application for a neighborhood entry sign conforms to the standards and criteria of this Division, the City Engineer shall consult with the Traffic Engineer, the Director of Current Planning and the City Neighborhood Resources office.

(b) At the time of issuance of a permit hereunder, the applicant shall pay a fee of twenty-five dollars (\$25.) for each neighborhood entry sign proposed to be constructed.

(c) Neighborhood entry sign permits issued pursuant to this Division are authorized under Article XI, Section 10 of the Charter. Accordingly, any such permit shall be revocable at the pleasure of the City Council or the City Engineer, whether or not such right to revoke is expressly reserved in such permit.

(d) Whenever any neighborhood entry sign is made or located contrary to the terms of the permit or without a permit or contrary to the terms of this Division, or at such time as the permit is revoked as provided for in this Division, the City Engineer shall give notice to the person or qualified neighborhood organization who made or located such neighborhood entry sign requiring the removal of such neighborhood entry sign. Said sign shall be removed within thirty (30) days following the date of delivery of such notice.  
(Ord. No. 193, 1999, § 1, 1-4-00; Ord. No. 004, 2007, § 9, 2-6-07)

**Sec. 23-95. Noncompliance with notice; removal of encroachment.**

If any notice given under § 23-94 is not complied with, the City Engineer is hereby authorized to cause the removal of the neighborhood entry sign(s) and to collect the cost of such removal and disposal from the permittee, and may commence such legal actions as may be necessary or appropriate for the purpose of collecting such costs.  
(Ord. No. 193, 1999, § 1, 1-4-00)

DIVISION V. NEWSRACKS

**Sec. 23-96. Intent and purpose.**

The purpose of this Division is to secure and promote the public health, safety and general welfare of persons using City rights-of-way by regulating the placement, appearance, size and servicing of newsracks in such rights-of-way. Nothing in this Division is intended to discriminate against, or interfere with the publication, circulation or distribution of, any printed material that is constitutionally protected.  
(Ord. No. 031, 2008, 5-6-08)

**Sec. 23-97. Definitions.**

The following words and phrases, when used in this Division, shall have the meaning respectively ascribed to them unless the context otherwise clearly indicates:

*Bus stop* shall mean the area immediately adjacent to any marked bus stop, consisting of a ten-foot-wide strip parallel to the roadway measured from the curb or, where there is no curb, the edge of the pavement, and running from the bus stop sign for forty (40) feet in the opposite direction of the flow of traffic.

*City right-of-way* shall mean an area dedicated to public use or impressed with an easement for public use, which is owned or maintained by the City and is primarily used for pedestrian or vehicular travel. *City right-of-way* shall include but not be limited to the street, gutter, curb, shoulder, sidewalk, sidewalk area, parking or parking strip and any public way.

*Newsrack* shall mean any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display, distribution or sale of a newspaper, magazine, periodical or other similar printed material. A space in a newsrack condominium is considered a newsrack if the context so implies.

*Newsrack condominium* shall mean a newsrack that is made of metal or other material acceptable to the City, uniformly colored, and that has space for two (2) or more periodicals, each of which is separately permitted under the provisions of this Division.

*Newsrack condominium area* shall mean the area shown on the "Map of Newsrack Condominium Area," dated May 16, 2008, and on file in the office of the City Clerk.

*Permittee* shall mean the person responsible for placing and maintaining a newsrack in a City right-of-way or for occupying a space in a newsrack condominium.

*Person* shall mean any person or entity, including, but not limited to a corporation, limited liability company, partnership, unincorporated association or joint venture.

*Roadway* shall mean that portion of a street that is improved, designed or ordinarily used for vehicular travel.

*Sidewalk* shall mean any surface provided for the use of pedestrians.

*Street* shall mean all the area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, tree-lawns and sidewalks.

*Tree-lawn* shall mean the area between the sidewalk and the curb of any street or, where there is no sidewalk, the area between the edge of the roadway and the property line adjacent thereto. *Tree-lawn* shall also include any area within a roadway that is not open to vehicular travel.

(Ord. No. 031, 2008, 5-6-08)

#### **Sec. 23-98. Permit required.**

It shall be unlawful for any person to erect, place, operate or maintain any newsrack or utilize any space in any newsrack condominium on City-owned property or any City right-of-way without first obtaining a permit from the City Manager approving the location or occupation of such newsrack. A newsrack that is in place that has not been authorized by a valid permit issued by the City may be removed by the City without notice. The City Manager's decision whether to issue or deny issuance of a newsrack permit shall be made within fifteen (15) days following the date that a complete application has been submitted to the City, or, with respect to applications filed under Subsection 23-102(a) below, such decision shall be made by July 31, 2008.

(Ord. No. 031, 2008, 5-6-08)

#### **Sec. 23-99. Application for permit; form and content.**

The owner of a newsrack for which a permit is sought and any person seeking to utilize any space in a newsrack condominium must submit to the City Manager a signed application in writing upon a form provided by the City and, except with respect to newsrack condominiums, a certificate of insurance with a limit of at least one million dollars (\$1,000,000.) per occurrence, showing the City as an additional insured, covering any liability arising out of the operation and maintenance of the newsrack. The insurance carrier must be rated B+ or better. The application shall contain:

- (1) The name and address of the applicant;
- (2) The proposed location of the newsrack or newsrack condominium; and
- (3) The signature of the applicant.

(Ord. No. 031, 2008, 5-6-08)

#### **Sec. 23-100. Conditions for issuance of permit.**

(a) Permits shall be issued for each newsrack and shall not be transferable to another person or another location; provided, however, that a permittee may use a single permit for different publications at a single newsrack location during the life of the permit, as the permittee so chooses, provided that the City Manager is first notified in writing of the intended change of publication. Permits will be valid for one (1) year unless earlier revoked pursuant to § 23-105 of this Division or pursuant to Article IX, Section 11 of the City Charter.

(b) No permit may be issued unless the applicant has filed a written statement with the City Manager, in a form satisfactory to the City Attorney, agreeing to indemnify and hold harmless the City, its officers and employees, from any loss, liability or damage, including expenses and costs, for bodily or personal injury or property damage sustained by any person as a result of the installation, use or maintenance of any permitted newsrack within the City that is not attached to a newsrack condominium or of that portion of a newsrack condominium that the permittee is required to maintain under Subparagraph 23-102(c)(5). The permittee's obligation to so indemnify the City and its officers and employees shall be contingent upon the City promptly notifying the permittee in writing of any such claim and delegating to the permittee all authority to control or compromise the defense of any such claim. Nothing herein shall be construed as a waiver of immunity as provided by the provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S. Upon approval of the application, each permittee shall pay an annual fee of ten dollars (\$10.) per permit prior to the issuance or renewal of the permit. (Ord. No. 031, 2008, 5-6-08)

**Sec. 23-101. Placement of newsracks.**

The following regulations shall apply to all newsracks placed in whole or in part upon, in or over any portion of City-owned property or City right-of-way.

- (a) No newsrack may be placed, installed, used or maintained:
  - (1) Within two (2) feet of the curb face of, or pavement edge of, any roadway.
  - (2) Within three (3) feet of any marked pedestrian crosswalk or entrance to any public transit shelter.
  - (3) Within five (5) feet of any fire hydrant, fire call box, police call box or any other emergency facility.
  - (4) On any portion of a pedestrian access ramp for disabled persons.
  - (5) Within three (3) feet of any of the following: parking meter posts, traffic control cabinets, bicycle parking racks, public telephone enclosures, kiosks, public works of art, entrances to any sidewalk cafe enclosure or any portion of a driveway.
  - (6) On any portion of a tree grate, utility cover, meter and/or valve box cover, vent cover for underground utilities or on any granite or other decorative sidewalk without special approval by the City Manager.
  - (7) In such manner that the effective, clear width provided for the passage of pedestrians within the sidewalk portion of City right-of-way fails to comply with the provisions contained in the Larimer County Urban Area Street Standards.
  - (8) Within the passenger boarding area of a designated bus stop.
  - (9) On landscaped areas or other pervious surface unless a concrete pad has been installed on such surface, pursuant to a permit issued by the City Manager.
  - (10) When such installation, use or maintenance endangers the safety of persons or property.
  - (11) When such site or location is used for public utility purposes, public transportation purposes or other public or governmental use incompatible with newsracks.
  - (12) When such newsrack unreasonably interferes with or impedes:
    - a. The flow of pedestrian or vehicular traffic, including parked or stopped vehicles, the ingress to or egress from any residence or place of business; or
    - b. The use or maintenance of poles, posts, traffic signs or signals, hydrants, mailboxes or other objects permitted at or near said location.

(b) Newsracks shall not be secured to the surface upon which they are situated by bolts, but must instead be secured by weight or other anchoring device approved by the City Manager.

(c) It shall be unlawful for any person, other than an employee or contractor of the City who is taking action pursuant to this Division, to move a newsrack without the authorization of the owner of the newsrack.

(d) It shall be unlawful for any person to deface a newsrack.

(e) No newsracks shall be permitted in mid-block locations unless the City Manager determines that the placement of a newsrack at such location:

- (1) Will not impede vehicular or pedestrian travel;
- (2) Will not cause a health and safety concern for the traveling public such as a tripping hazard or sight distance issue;
- (3) Will not cause the newsrack to be placed within three hundred (300) feet, or such lesser distance as may be determined by the City Engineer, of any other newsrack except such other newsracks as may be within the same cluster of newsracks as the newsrack that is the subject of the application;
- (4) Will not cause damage to any City property;
- (5) Will not impede any irrigation system to private or City property;
- (6) Will allow for the placement of the newsrack within the right-of-way at least two (2) feet behind the walk or in the tree-lawn between the walk and the curb and not a pervious surface;
- (7) Will not be secured to any City property, such as sign posts, street light poles, signal light poles or trees;
- (8) Will not be secured to any private property, such as fences or trees.

(f) If the number of newsracks at a location must be reduced for any reason, the last permitted newsrack shall be the first to be removed, and so on, with the first permitted the last to be removed. Any newsrack so removed shall be permitted at the nearest available location acceptable to the permittee without the imposition of a new permit fee.

(g) Newsracks within the newsrack condominium area may be placed only within a newsrack condominium. This requirement shall take effect only after the City has installed newsrack condominiums at a minimum of twelve (12) locations. The actual number and locations shall be determined by the City Manager after consulting with the City Engineer and with representatives of the downtown community and affected publishers. Such locations shall not unreasonably interfere with the flow of pedestrian or vehicular traffic or impede the interests advanced by the provisions of Subsection (a) above. In no event shall more than two (2) newsrack condominiums or clusters of condominiums be placed at any intersection, and all such condominiums at intersections shall be cater-corner from one another. Such locations shall be reviewed by the City Manager not less frequently than every two (2) years.

(Ord. No. 031, 2008, 5-6-08)

**Sec. 23-102. Allocation of spaces in newsrack condominiums; selection method.**

(a) Spaces in newsrack condominiums shall initially be allocated by the City Manager during the period from July 1 through July 31, 2008. For-sale publications shall generally be located in the upper areas of the condominiums and free publications in the lower areas so as to accommodate the insertion of coins into coin boxes. Individual spaces within the condominiums shall be allocated by the City Manager by the drawing of lots. The number of condominium spaces available will determine how many publications will be allowed therein.

(b) After the initial allocation of spaces in newsrack condominiums, the public shall be notified via the City's website when a location becomes available. Persons seeking permits for the available spaces shall have fourteen (14) calendar days from the date of the notification to submit applications for any such location. If more applications are received in that period than can be accommodated, all such applications shall be put on an equal priority and the per-

mits shall be allocated in accordance with Subsection (a) of this Section, subject to Paragraphs (1) and (2) below. Any applications that are not granted through the foregoing process or that are submitted after the fourteen-day period has expired shall be granted on a space-available, first-come, first-served basis.

- (1) If a publication has one (1) newsrack that has been permitted at a newsrack condominium location, it may obtain a permit for a second newsrack only after permits to all other publications requesting initial permits have been issued.
  - (2) If a publication requests a permit at a newsrack condominium location where it has no permitted newsracks but where there are two (2) or more permitted newsracks of another publication, the publication with multiple newsracks must remove as many newsracks as necessary to allow for the placement of the new newsrack, provided that no publication shall be required to remove all of its permitted newsracks from such location.
- (Ord. No. 031, 2008, 5-6-08)

**Sec. 23-103. Construction, size, appearance and maintenance of newsracks.**

(a) Newsracks shall be constructed in such manner as to withstand normal wear and tear and extreme weather conditions and must be finished in such a way as to provide easy and safe access by pedestrians using the public streets and sidewalks.

(b) Newsracks shall be constructed and painted or colored in a manner that allows them to be maintained free of rust, graffiti or other signs of outdoor wear and tear or abuse.

(c) Newsracks that, in whole or in part, rest upon, in or over any City right-of-way shall comply with the following standards:

- (1) Newsracks shall not exceed sixty (60) inches in height, twenty-four (24) inches in depth and thirty (30) inches in width.
- (2) No newsrack may be of such size as to visually obstruct the safe movement of traffic, pedestrians or bicyclists.
- (3) No newsrack may be used to advertise anything other than the newspaper or periodical sold therein.
- (4) Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained no less than once per week so that:
  - a. It is reasonably free of dirt and grease;
  - b. It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas;
  - c. It is reasonably free of rust and corrosion;
  - d. Any clear plastic or glass parts thereof, through which the publications therein are viewed, are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
  - e. Any paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading;
  - f. It is free from trash and graffiti; and
  - g. All structural parts thereof are intact.
- (5) The City shall be responsible for maintenance of all newsrack condominiums except for the individual doors, publisher nameplates/stickers and coin-collection apparatus which shall be maintained by the permittees utilizing such doors, nameplates/stickers and coin-collection apparatus.
- (6) Each newsrack not affixed to a newsrack condominium shall have affixed to it in a readily visible place, so as to be seen by anyone using the newsrack, a notice containing the name and address of the permittee and the telephone number of a working telephone service for reporting a malfunction, securing a refund or giving the notices provided for in this Division.

- (7) Notices affixed to newsrack condominiums need contain only the name and telephone number of the City office which is responsible for the maintenance of the newsrack condominium, regardless of the number of permittees actually utilizing said newsrack condominium.

(Ord. No. 031, 2008, 5-6-08)

**Sec. 23-104. Handicapped accessibility requirements.**

All newsracks shall comply with the requirements of the Americans with Disabilities Act (ADA) and the regulations adopted thereunder and all regulations adopted by the City regulating handicapped accessibility.

(Ord. No. 031, 2008, 5-6-08)

**Sec. 23-105. Revocation of existing permits.**

Permits are hereby revoked that are in place in the public right-of-way on July 31, 2008.

(Ord. No. 031, 2008, 5-6-08)

**Sec. 23-106. Violations.**

(a) Upon determination by the City Manager that a newsrack has been installed, used or maintained in violation of the provisions of this Division, the City Manager may revoke the permit and remove the newsrack or may order the permittee to correct the offending condition. Any such order to correct an offending condition may be issued by telephone or sent by facsimile transmission or by registered mail, return receipt requested, to the permittee. The order shall describe the offending condition, suggest actions necessary to correct the condition and establish a date for compliance that is not less than five (5) working days from the date that the order is sent or telephoned to the permittee. The order shall inform the permittee of the right to appeal. The City Manager may remove the offending newsrack and revoke the permit if the permittee does not remove the newsrack or if the offending condition is not cured by the date set for compliance in the order. The City Manager shall cause an inspection to be made of any corrected condition of a newsrack or of a newsrack that is reinstated after removal under this Section.

(b) Whenever the City Manager finds a newsrack that does not have affixed to it the name and telephone number of the permittee, the City Manager shall make reasonable efforts to ascertain who the permittee is and notify the permittee of the violation.

(c) Any impounded newsrack shall be treated as unclaimed property and disposed of by the City if not claimed within thirty (30) calendar days of the date of impoundment.

(Ord. No. 031, 2008, 5-6-08)

**Sec. 23-107. Appeals.**

Any person or entity aggrieved by a finding, determination, notice, order or action taken under the provisions of this Division may appeal to the City Manager as provided in Chapter 2, Article VI, of the City Code.

(Ord. No. 031, 2008, 5-6-08)

**Sec. 23-108. Abandonment.**

Any newsrack located on City right-of-way which remains empty for a period of ten (10) continuous days after the City has notified the permittee of such condition, will be deemed abandoned. The City Manager may remove any abandoned newsrack from the City right-of-way and, unless the newsrack is claimed within thirty (30) calendar days, the City Manager may dispose of the abandoned newsrack or sell the abandoned newsrack at an auction as unclaimed property.

(Ord. No. 031, 2008, 5-6-08)

**ARTICLE IV.**  
**DISPOSITION OF PROPERTY\***

DIVISION 1. GENERALLY

**Secs. 23-109—23-110. Reserved.**

DIVISION 2. REAL PROPERTY

**Sec. 23-111. Authorization to sell real property.**

(a) The City Council is hereby authorized to sell, convey or otherwise dispose of any and all interests in real property owned in the name of the City, whether the interest in real property is obtained by tax deed or otherwise, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City.

(b) With respect to real property which is a part of the City's water or utility systems, the City Council must also find that the disposition will not materially impair the viability of the particular utility system as a whole and that it will be for the benefit of the citizens of the City.

(c) With respect to the sale of a certificate of purchase obtained by the City pursuant to § 22-97, if such certificate of purchase is to be sold and assigned for less than its face value, the City Council must authorize such sale and assignment in accordance with Subsection 23-111(a). Prior to City Council approving such sale, however, the City must give notice to all persons having any interest in the property for which the certificate of purchase was issued or having any interest in the proceeds of the proposed sale. Such notice shall be given by publication once each week for two (2) successive weeks in an official newspaper published in the City. Written notice shall also be given by mail within ten (10) days after the first publication, postage prepaid, first class mail, to all governmental taxing units having taxes or other claims against the property, and to the last known address of all record interest holders in the property. In addition, if such sale and assignment will, in the judgment of the Financial Officer, impair in any way the payment of any principal or interest owing under the bonds which are paid with assessments collected from the property described in the certificate of purchase, then such written notice shall also be given to the bondholders. Notice to bondholders shall be mailed, in the case of registered instruments, to those names and addresses which are recorded on the registration books of the City or, in the case of bearer instruments, to those names and addresses which may be otherwise known to the City. The date of sale of any certificate of purchase for which notice is required under the provisions of this Section shall be not less than thirty (30) days nor more than forty-five (45) days after the date of first publication of the notice. Notwithstanding the foregoing, the City's Financial Officer may sell certificates of purchase without notice or formal approval by the City Council when such sale is made in the manner and on the terms provided in § 22-97.

(d) The Planning and Zoning Board may, without formal approval by the City Council, vacate easements and other rights-of-way, except streets and alleys, either by resolution or by approval of replats containing notation of such vacation as provided in Paragraph 2-353(4) of this Code.

(e) The Mayor is authorized to execute all leases, deeds and other instruments of conveyance.

(f) Notwithstanding the foregoing requirements, in the event that the City's procurement of any utility service from a regulated public utility is conditioned upon the grant of rights-of-way for installation of service lines and other improvements directly related to said utility service, the Purchasing Agent may, with the approval of the City Manager, enter into a contract for said utility services and so authorize the conveyance of such rights-of-way as may be necessary for the provision of such utility services to the City.

(Code 1972, § 26-1; Ord. No. 21, 1990, § 1, 4-3-90; Ord. No. 140, 1992, 1-5-93; Ord. No. 035, 2006, 3-7-06)

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\* **Cross-reference**—Junked, wrecked, abandoned, inoperable property, § 20-81 et seq.

**Sec. 23-112. Real property defined.**

*Real property*, when used in this Division, shall mean lands, lands under water, buildings, permanent structures and any and all easements, incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(Ord. No. 21, 1990, § 2, 4-3-90)

**Editor's note**—Prior to its repeal and reenactment by § 2 of Ord. No. 21, 1990, adopted Apr. 3, 1990, § 23-112 related to a preliminary resolution by the City Council and was derived from Code 1972, § 26-2.

**Sec. 23-113. Form of deeds; signature and seal.**

All leases, deeds and other instruments of conveyance executed by "The City of Fort Collins, by the Mayor," and attested by the City Clerk with the official seal of the City affixed thereto and purporting to have been made pursuant to the provisions of this Division shall be deemed prima facie evidence of due compliance with all the requirements of this Division.

(Code 1972, § 26-3; Ord. No. 21, 1990, § 1, 4-3-90)

**Sec. 23-114. Leases.**

(a) Notwithstanding the provisions of § 23-111 of this Division, the City Council is hereby authorized to lease, for a definite term of two (2) years or less, any and all interests in real property owned in the name of the City, whether the interest in real property is obtained by tax deed or otherwise, provided that the City Council first finds, by resolution, that the lease is in the best interests of the City; provided, however, that any lease having a potential term of more than two (2) years, and any lease, regardless of term, of real property which is a part of the City's water or electric utility systems, must be approved by the City Council in the manner required by § 23-111.

(b) Notwithstanding the provisions of § 23-111 of this Division, the City Manager is hereby authorized to approve and execute lease agreements in real property owned in the name of the City and located at the Fort Collins-Loveland Municipal Airport, provided that:

- (1) The use to which the real property is to be put under the lease is an aeronautical or general aviation use or a use which directly augments an aeronautical or general aviation use;
- (2) The use to which the real property is to be put is permitted by any land use or zoning codes or regulations applicable to the real property;
- (3) The lease and the use to which the real property is to be put are in compliance with all Federal Aviation Administration and state laws, regulations, and agreements applicable to the property to be leased;
- (4) The lease provides that the City shall receive a rental amount which is determined by the City Manager to approximate the fair market value for the lease of the real property; and
- (5) The real property to be leased is not a part of the City's water or electric utility systems.

(c) *Lease*, when used in this Section, shall mean a contract by which the City grants to another the right to possess, use and enjoy any real property owned by the City for ten (10) days or longer, in exchange for the payment of rent in a stipulated amount.

(d) Nothing in this Section shall be construed as prohibiting the City Manager from authorizing, according to the provisions of Chapter 7.5, Article I, fees for the temporary use of City facilities for a period of ten (10) days or less, and such use of City facilities by the feepayer shall not be construed as a lease of those facilities within the meaning of this provision.

(Ord. No. 21, 1990, § 3, 4-3-90; Ord. No. 116, 1997, 8-5-97; Ord. No. 183, 2004, § 1, 12-7-04)

**Sec. 23-115. Vacating public right-of-way.**

(a) The City Council is authorized to vacate City right-of-way, provided that the City Council first finds, by ordinance, that the right-of-way being considered for vacation is no longer needed for right-of-way purposes, and that it is in the public's interest to vacate the same.

(b) Any person desiring the vacation of City right-of-way shall make written application therefor to the City Engineer on the form prepared and provided by the City Engineer's office. Supporting documentation such as land surveys, legal descriptions, maps and other materials as determined necessary by the City Engineer to properly describe the property to be vacated, or to explain or provide justification for the request, shall be provided with the application.

(c) The applicant for a right-of-way vacation shall remit to the City a nonrefundable application fee in such amount as may be established by the City Manager pursuant to Chapter 7.5, Article I of this Code.

(d) The City Engineer shall route the vacation request to, and solicit comments from, potentially affected utility agencies, City staff, emergency service providers and affected property owners in the vicinity of the right-of-way being proposed for vacation. Upon receipt of such information from potentially affected interests, the City Engineer shall develop a recommendation for approval or denial and shall submit such recommendation to the Planning Development and Transportation Director.

(e) Recommendations of the Planning Development and Transportation Director for approval of a right-of-way vacation shall be forwarded to City Council for its consideration of action by ordinance to vacate the right-of-way. Decisions of the Planning Development and Transportation Director for denial of a right-of-way vacation request shall be delivered in writing to the applicant and may be appealed to the City Manager pursuant to the provisions contained in Chapter 2, Article VI of the Code.

(f) For approved right-of-way vacations, the title to the vacated right-of-way shall vest in accordance with Section 43-2-302, C.R.S.

(Ord. No. 106, 2004, 7-20-04; Ord. No. 004, 2007, § 10, 2-6-07; Ord. No. 082, 2007, 8-21-07)

**Sec. 23-116. Permits and licenses to enter on real property.**

(a) The City Manager is authorized to grant a permit or license for the use or occupation of any real property owned in the name of the City, provided such use or occupation:

- (1) will be completed no later than one (1) year from the effective date of the permit;
- (2) does not involve the installation of any permanent fixtures or improvements on the property; and
- (3) cannot be authorized entirely through other administrative processes provided for in the Charter, Code or Land Use Code.

(b) Any such permit or license may include such conditions and requirements as the City Manager deems necessary and appropriate to protect the interests of the City, and shall be revocable at the pleasure of the City Manager, whether or not such right to revoke is expressly reserved in such permit or license.

(c) The City Manager shall promptly notify the City Council of the granting of any permit or license pursuant to this Section.

(Ord. No. 092, 2009, 10-6-2009)

**Secs. 23-117—23-125. Reserved.**

**DIVISION 3. REAL AND PERSONAL PROPERTY**

**Sec. 23-126. Surplus and obsolete property; definition.**

All items of surplus and obsolete property owned by the City shall be disposed of by public sale or otherwise at the discretion of the Purchasing Agent according to established administrative procedures approved by the City Manager. For the purposes of this Division, *surplus and obsolete property* shall mean all items of personal property previously

purchased by the City or converted to City use through the procedures described in this Division which in the judgment of the Purchasing Agent are no longer useful or necessary for the efficient administration of City affairs. (Ord. No. 140, 1986, 10-21-86)

**Sec. 23-127. Disposition of stolen property.**

(a) The provisions in this Division shall control the disposition of all stolen property found, seized or otherwise delivered into the possession of the City and remaining unclaimed by the lawful owner.

(b) Upon a determination that property coming into the possession of the City is stolen or as soon thereafter as is practicable, such property shall be delivered to the Chief of Police as custodian, who shall keep a record of all such property together with the date when and the place from which the property was obtained.

(c) With respect to bicycles, any bicycle that is identified as stolen and that is no longer necessary as evidence in a criminal prosecution may be delivered to Transportation Planning and disposed of pursuant to § 23-130. (Code 1972, § 88-1; Ord. No. 140, 1986, § 88-12, 10-21-86; Ord. No. 018-2007, § 2, 2-6-07; Ord. No. 151-2007, § 1, 1-15-08)

**Sec. 23-128. Disposition of illegal property.**

Any property, the possession of which is illegal, including controlled substances or drug paraphernalia which is no longer of any evidentiary value in any pending criminal proceeding and the destruction of which has been authorized by court order pursuant to any applicable provisions of law, may be destroyed by the Chief of Police. For the purposes of this Section, *controlled substance* and *drug paraphernalia* shall have the same meaning as those set forth in Sections 12-22-303(7) and 12-22-502(2), C.R.S.

(Ord. No. 140, 1986, § 88-12(A), 10-21-86)

**Sec. 23-129. Disposition of perishable or hazardous property.**

(a) If any property seized or otherwise obtained by the City is of a perishable nature or of such nature as to make it inadvisable in the opinion of the Chief of Police to retain possession, such property shall be forthwith advertised for sale at public auction with public notice to be published in a newspaper of general circulation throughout the City or shall be advertised via electronic media not less than three (3) days prior to such sale, which notice shall contain the date, time and place of such sale and the reason for the immediate sale. At the discretion of the Purchasing Agent, such public sale or auction may also take place via means of electronic media.

(b) Notwithstanding the foregoing, nothing herein shall preclude the immediate disposal or destruction of property which in the judgment of the Chief of Police, or in the judgment of such other City service director whose service area has obtained the property, presents an immediate danger to the health, safety or welfare of the community if otherwise retained in the possession of the City for the period of time provided for herein or which by reason of its nature, condition or substance is not properly the subject of a sale.

(c) Nothing contained in this Section shall be construed to refer to any impounded animals as may be provided for in any other City ordinance.

(d) For purposes of this Division, *electronic media* shall mean the Internet, the City website or other widely available resource on the World Wide Web.

(Code 1972, § 88-3; Ord. No. 140, 1986, § 88-12(B), 10-21-86; Ord. No. 018-2007, § 3, 2-6-07; (Ord. No. 84, 1990, 8-7-90; Ord. 179, 1997, 11-18-97; Ord. No. 026, 2008, § 8, 3-18-07)

**Sec. 23-130. Disposition of lost, abandoned or other unclaimed property.**

Except as otherwise specifically provided for by law or ordinance, any property seized or otherwise obtained by the City and not sold or destroyed as perishable, hazardous or illegal property and which property has not been claimed by or surrendered to the rightful owner may be disposed of in the following manner:

- (1) All such property must first be retained for a period of no less than thirty (30) days from the date that possession was acquired by the City;
  - (2) After the expiration of such period of time and as soon thereafter as is practicable, the Purchasing Agent must cause to be published once in a newspaper of general circulation in the City, or advertise via electronic media, a general description of the articles of property to be disposed of, which notice must contain the following information:
    - a. That a detailed list of each and all articles of such property is available and may be obtained from Purchasing, including the address and the hours during which such list may be obtained;
    - b. That if such property is not claimed by the rightful owner within ten (10) calendar days from the date of the publication, such property will become the property of the City to be disposed of by public auction or otherwise, and if by public auction provide the date, place and location of any such public auction.
  - (3) If within ten (10) days from the publication of the notice, no claim for such property described in the notice shall have been made by the rightful owner, such property shall become the property of the City and shall be disposed of in the following manner:
    - a. Any property which was delivered to the City, the possession or use of which is not illegal or dangerous, may be returned to the person who delivered the same to the City. The City shall thereupon relinquish any claim of ownership to such property and shall thereafter be relieved of any liability to the original owner of such property or any other person.
    - b. Any other such property may, in the discretion of the Purchasing Agent, be retained and used by the City in the administration of City affairs or for use in City or community events or programs, so long as the use and distribution of such property is in accordance with the Purchasing Agent's established policies and guidelines approved by the City Manager.
    - c. All other property shall be sold at public auction, including an auction via electronic media in the manner and upon the terms described in the above notice, with the proceeds of any such sale or sales to be paid to the Financial Officer to be placed in the general fund of the City after deducting the cost of storage, advertising and selling.
    - d. Any unclaimed property which is of little or no marketable value may be destroyed.
  - (4) Notwithstanding any of the foregoing provisions to the contrary, the disposition of firearms or other weapons shall be governed by the following additional provisions:
    - a. Firearms and other weapons shall be disposed of at the sole discretion of the Chief of Police, who may:
      1. Authorize sale or destruction; or
      2. Authorize retention for the purpose of training members of Police Services in the safe handling and operation of those weapons. Any firearm so retained shall be rendered inoperable.
    - b. Sales of firearms shall be restricted to licensed dealers or licensed collectors (licensed under the Federal Gun Control Act of 1988).
- (Code 1972, § 88-2; Ord. No. 140, 1986, § 88-12(C), 10-21-86; Ord. No. 102, 1989, § 2, 8-1-89; Ord. No. 130, 2002, § 7, 9-17-02; Ord. No. 018-2007, § 4, 2-6-07; Ord. No. 151, § 2, 1-15-08; Ord. No. 026, 2008, § 9, 3-18-08)

**Secs. 23-131—23-139. Reserved.**

## **ARTICLE V. CITY FACILITIES GENERALLY**

**Sec. 23-140. Rules and regulations.**

(a) The City Manager is hereby authorized to establish such rules and regulations governing the conduct of the general public's use of facilities owned or operated by the City, excluding streets, sidewalks and other City rights-of-way, as the City Manager may determine are necessary and appropriate to serve one (1) or more of the following purposes:

- (1) The protection of such facilities, or any other City property or facility;

- (2) The protection of the safety, well-being and property of persons using such facilities;
- (3) The protection of the use and enjoyment of such facilities by the general public; or
- (4) The needs and objectives of the City in maintaining and operating such facilities, and/or the natural environment in general.

(b) Such regulations may be established for selected individual facilities or groups of facilities, provided that the scope of any regulations shall be clearly stated therein, and shall become effective upon the filing of such regulations with the office of the City Clerk and the posting of a notice of the adoption of the regulations at all public entrances of the affected facilities. Such notice shall include the effective date of the regulations, and notice that the full text of the regulations is on file in the office of the City Clerk and at the affected facilities, and is available for public review. The City Manager, or his or her designee, shall have the power to exclude any and all persons who willfully or knowingly violate any such regulations from the use and benefit of any or all City facilities, subject to any enforcement procedures set forth in such regulations. No such regulations shall be deemed to apply to emergency or law enforcement operations, or to City management and maintenance activities, to the extent their application would impair the performance of the same.

(Ord. No. 34, 2001, § 1, 3-6-01; Ord. No. 004, 2007, § 12, 2-6-07)

**Sec. 23-141. Naming of properties and facilities for persons or entities.**

(a) The requirements of this Section shall apply to the naming of City-owned or -operated properties or facilities for persons or entities, including, but not limited to, individuals, families, designated groups of persons, and for-profit and not-for-profit organizations and associations. Any property assets under the City's ownership and control, including parks, recreational and cultural facilities, civic buildings, natural areas, trails or any portions of such properties or facilities, shall be named in accordance with this Section, except that the naming of streets and alleys, to the extent carried out by the City, shall be governed by § 24-91 of this Code.

(b) The naming of a City property or facility, or portion thereof, for one (1) or more persons or entities shall be approved by the City Council by resolution, after review by an ad hoc City Council committee formed for the purpose of selecting and recommending a name for such property, facility or portion thereof. The formation of an ad hoc naming committee may be initiated by request of the City Manager or the Mayor or by majority vote of the City Council. An ad hoc naming committee may seek such public input and may request and consider proposals and recommendations of City boards and commissions and the City Manager, as said committee deems appropriate. A resolution approving a City property or facility name pursuant to this Section shall include a description of the donation or other significant service or benefit to the community that is the basis for the designation of the name approved. The resolution shall further provide that the City may modify or remove the approved name in the future in the event that the City Council determines such modification or removal to be appropriate in light of changed circumstances or other matters of public interest or convenience. Examples of such grounds for modification of an approved name include a change of use of the facility, a change in public perception of the name or development of a new purpose or priority for the property named.

(c) In the event that a significant financial donation has been made for the acquisition, construction or improvement of a property or facility, the property or facility or a portion thereof may be named either for the donor or in consideration of the wishes of the donor. Donations shall be of a significant size and proportion to the total cost of the property or facility or portion thereof to be named. Generally, the donation should be no less than seventy-five (75) percent of the value of the property, facility, feature or portion thereof to be named. If such a donation is received from an individual, family or entity, the City Council will give significant weight to a naming or recognition request from the donor, but will consider such a request in light of other policy or practical priorities and concerns and the public interest in general. In some instances, the naming of a portion of a property or facility or a specific feature of the property or facility for a donor may be an appropriate alternative to naming the entire property or facility.

(d) A property or facility or a portion thereof may be named for a community member or other significant contributor to the community, as set forth in this Subsection. To be eligible for naming consideration under this Subsection, a name must be either the name of a living person or an entity, or the name of a person deceased for no less than

twelve (12) months at the time of nomination. Persons or entities for which a property or facility or portion thereof is named hereunder shall be determined to have provided significant service or direct benefit to the community that has endured, or will endure, over many years.

(e) Prior to final approval of the naming of a property or facility named for a deceased person, the City shall make reasonable efforts to identify, locate and obtain the consent of the next of kin of such person.

(Ord. No. 134, 2011, § 1, 11-1-11)

**Sec. 23-142. Naming of properties and facilities for other than persons or entities.**

(a) The City Manager is authorized to establish administrative rules and procedures for the selection and approval of names for City-owned or -operated properties or facilities, except as specified in § 23-141 above and § 24-91 of this Code. All administrative naming of properties and facilities, and portions thereof, shall be in accordance with such rules and procedures.

(b) The City Manager shall not name City-owned or -operated properties or facilities, or portions thereof, for products or commodities, and shall not offer for sale or auction the name or naming rights of any such property, facility or portion thereof.

(c) In connection with the naming of such properties and facilities, the City Manager shall generally give preference to the use of names associated with geographic location, unique natural, historical or cultural features or significance, and the specific purposes of the property or facility, and the avoidance of confusion with existing facilities or locations.

(Ord. No. 134, 2011, § 2, 11-1-11)

**Secs. 23-143—23-155. Reserved.**

**ARTICLE VI.  
CEMETERY\***

**Sec. 23-156. Rules and regulations.**

(a) All cemeteries owned by the City shall be operated and maintained in accordance with rules and regulations adopted by the City Council by ordinance.

(b) It shall be unlawful for any person to knowingly violate any provisions of such rules and regulations relating to conduct within the cemeteries.

(Ord. No. 14, 1988, 3-1-88; Ord. No. 020, 2004, 2-17-04)

**Sec. 23-157. Unlawful burial.**

It shall be unlawful for any person to bury, or cause or permit to be buried, the body of any dead person in any place in the City other than within an authorized cemetery.

(Code 1972, § 42-11)

**Sec. 23-158. Abandoned burial spaces.**

(a) The right of interment in any unoccupied burial space shall, upon abandonment, revert to the City, as provided below.

(b) Failure to inter in any burial space within fifty (50) years from the date of purchase shall create a presumption that the same has been abandoned. This presumption shall not apply if the perpetual care fee as required by Section 10.2 of the rules and regulations has been paid and a statement has been filed with the Cemetery Office by the owner or the owner's heirs or assigns evidencing an intent to retain the specified burial spaces.

(c) A presumed abandonment shall be deemed complete if:

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\* Cross-references—Cemetery fund created, § 8-73; perpetual care fund created, § 8-81.

- (1) The owner has been notified of the presumed abandonment in writing, mailed to the owner's last known address, by the Cemetery Supervisor, or in the event that the address of the owner and/or his or her heirs cannot be ascertained, notice of such abandonment has been given by publishing the same in a local newspaper once a week for five (5) weeks; and
- (2) Neither the owner nor the owner's heirs or assigns have contacted the Cemetery Office and paid the required perpetual care fee within sixty (60) days after the date the notice of abandonment was mailed or after final publication of such notice, whichever is applicable.

(d) Upon abandonment, the City may thereafter sell, transfer and convey the right to interment therein. The funds derived from any sale of an abandoned space shall be deposited in, and become a part of, the Cemetery Fund. (Ord. No. 100, 2000, § 1, 9-5-00)

**Secs. 23-159—23-170. Reserved.**

**ARTICLE VII  
RESERVED\***

**Secs. 23-171—23-185. Reserved.**

**ARTICLE VIII.  
MUSEUM\*\***

**Sec. 23-186. Care and custody of museum.**

The City shall have the immediate supervision, care and custody of the Fort Collins Museum and any collection or other personal property received by the City for display in the museum. (Code 1972, § 71-9)

**Secs. 23-187—23-190. Reserved.**

**ARTICLE IX.  
NATURAL AREAS**

**Sec. 23-191. Purpose and scope.**

This Article establishes the standards for conduct within City-designated natural areas by the general public. The requirements and prohibitions of this Article shall not apply to emergency or law enforcement operations or to City management and maintenance activities to the extent the operation of this Article would impair the performance of the same. (Ord. No. 27, 1999, § 1, 3-2-99)

**Sec. 23-192. Definitions.**

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

*Camping* shall mean to sleep or spend the night or reside or dwell temporarily in a natural area, with or without bedding or other camping gear, and with or without shelter, or to conduct activities of daily living, such as eating or sleeping, in such place. *Camping* shall not include incidental napping or picnicking.

*Designated trail* shall mean a trail or path within the boundaries of a natural area, whether paved or unpaved, maintained or unmaintained, designated as a trail for use by the public by the posting of signs or by designation on official maps of a natural area.

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\* Editor's note — Ord. No. 065, 2010, adopted June 15, 2010, repealed Art. VII in its entirety. Formerly, Art. VII pertained to the care and custody of the Fort Collins Public Library.

\*\* Cross-references—Cultural Resources Board, § 2-201, et seq.; Office of Cultural, Library and Recreational Services, § 2-511, et seq.

*Director* shall mean the Director of Community Planning and Environmental Services of the City.

*Group event* shall mean an event such as an athletic event, class, fair, festival or other activity that is planned or reasonably expected to include fifteen (15) or more persons, that will include activities other than those expressly authorized in a particular location, such as picnicking in a posted picnic area, and that is reasonably expected to:

- (1) Obstruct, delay or interfere with the normal use of any natural area or any trails, viewing stations or other facilities located therein;
- (2) Present a risk of negative impact to animal or plant life, or the ecology of any natural area; or
- (3) Constitute an event or other special event as the same are defined in § 23.5-2, in which event any applicable requirements of Chapter 23.5 shall also apply.

*Hazardous substance* shall mean any chemical, compound, substance or mixture that state or federal law designates as hazardous because it is ignitable, corrosive, reactive or toxic, or any petroleum-based substance or by-product, including but not limited to solvents, degreasers, paint thinners, cleaning fluids, pesticides, adhesives, strong acids and alkalis, paints, inks, gasoline, oil and diesel fuel.

*Incidental trash* shall mean discarded items reasonably and actually used or consumed in the course of appropriate use of a natural area, or packaging from the same, and shall not include household or yard waste, commercial or construction waste, or other waste brought into a natural area for the purpose of disposal of such waste, or any hazardous substance.

*Mobility disability* shall mean a disability, as defined in Title II of the Americans with Disabilities Act, that limits an individual's mobility within a natural area.

*Natural area* shall mean any area designated and posted by the City as a City natural area, whether within or without the City limits, and shall include any trails to the extent the same are within the boundaries of a natural area.

*Other power-driven mobility device* shall have the meaning ascribed to it by Title II of the Americans with Disabilities Act.

*Service Area* shall mean Community Planning and Environmental Services of the City.

*Waste* shall mean solid or liquid waste, except hazardous substances, whether organic or inorganic, including by way of illustration and not limitation, wastes and materials commonly known as trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, tree limbs, glass, rags, discarded clothes or wearing apparel of any kind, or any other discarded object.

(Ord. No. 27, 1999, § 1, 3-2-99; Ord. No. 130, 2002, § 4, 9-17-02; Ord. No. 018, 2006, § 4, 2-21-06; Ord. No. 191, 2006 § 1, 12-19-06; Ord. No. 167, 2011, § 1, 12-20-11)

**Sec. 23-193. Prohibited acts; permits.**

- (a) It shall be unlawful to:
  - (1) Discard, dispose or release any waste or hazardous substance of any kind in a natural area or in a manner reasonably likely to result in the entrance of such waste or hazardous substance into or upon a natural area, except for the disposal of incidental trash in receptacles provided by the City for disposal of trash.
  - (2) Bring any glass container into a natural area or possess the same while in any natural area except when removing containers during site clean-up activities sponsored or permitted by the City.
  - (3) Bathe or wash any persons or objects in any waters of a natural area, or otherwise in any manner reasonably likely to result in the release of any waste or hazardous substance into any waters of a natural area.
  - (4) Drive, hit or throw golf balls into or upon a natural area.

- (5) Fly a kite within a natural area.
- (6) Operate a motorized model boat, car, truck, aircraft or other motorized model vehicle in a natural area.
- (7) Launch a model rocket in, onto or over a natural area.
- (8) Bicycle, skateboard or skate (in-line or otherwise) in a natural area, except upon a roadway or designated trail.
- (9) Knowingly or negligently harass wildlife, or permit or direct a dog, falcon or other animal under one's care or control to harass wildlife, in a natural area, whether or not the same results in injury to such wildlife.
- (10) Remove, destroy, mutilate, modify or deface any building, structure, water control device, fence, gate, notice, sign, survey or section marker, tree, shrub or other plant or vegetation, insect, bird or other animal, or any other object, in a natural area, except during site clean-up activities, when taking fish in a manner otherwise permitted under this Article, or as specifically allowed by permit issued pursuant to §§ 23-193 and 23-194.
- (11) Possess or consume in a natural area any alcoholic beverage or possess any container, whether open or unopened, that contains or has been used to contain any alcoholic beverage.
- (12) Fish in a natural area without a valid license as required by the Colorado Division of Wildlife, or in violation of any requirements of the Colorado Division of Wildlife, or possess a fish taken in violation thereof.
- (13) Leave any fire unattended in a natural area.
- (14) Operate any boat in waters within a natural area unless the boat contains at least one (1) personal flotation device that is in good and serviceable condition and of a type approved for recreational use by the United States Coast Guard for each person on board. Any such use must also be consistent with Paragraph (d)(2) below.
- (15) Ride a horse, bicycle, skateboard or other means of conveyance, or skate, in a reckless or unsafe manner in a natural area.
- (16) Violate the following in any natural area:
  - a. Division 5 of Chapter 4, regarding control of animals;
  - b. Chapter 9, regarding fire prevention and protection;
  - c. Chapter 11, regarding hazardous materials transportation;
  - d. Section 12-37, prohibiting tampering with refuse or rubbish containers;
  - e. Chapter 17, regarding miscellaneous offenses, including without limitation the discharge of weapons, trespass, loitering and disturbing the peace; and
  - f. Chapter 23.5, regarding special events.
- (17) Fail to comply with any posted yield, right-of-way or other trail use requirement on a trail subject to the provisions of this Article.
- (18) Violate any term, condition or requirement of any permit issued pursuant to this Article.
  - (b) Unless a sign has been posted by the Service Area that the particular natural area or a portion thereof is open for such use, it shall be unlawful to:
    - (1) Enter upon the ice of any waters of a natural area.
    - (2) Swim, wade or otherwise enter into any waters of a natural area, or allow any pet animal or any riding or pack animal to do so.
    - (3) Sled, snow tube, downhill ski or snowboard in a natural area.

- (4) Ride a horse in a natural area, other than on or within ten (10) feet of a designated trail, except to the extent unavoidable circumstances require that a horse be ridden beyond this ten-foot limit briefly to avoid imminent danger to other persons.
- (5) Climb rocks or boulders with or without ropes, fixtures or other apparatus.
- (6) Kick, hit or throw a flying disc, ball or boomerang in, onto or over a natural area, except within a fenced area designated and posted to allow dogs off-leash.

(c) It shall be unlawful to engage in any activity within or upon a natural area when a sign has been posted by the Service Area that the particular area or a portion of the area is closed for such use, based upon a determination by the Service Area that such prohibition is appropriate to protect the safety or well-being of persons or animals; the natural area, related facilities or any other City property or facility; the use and enjoyment of said areas or facilities by the general public; the needs and objectives of the City in maintaining and operating the same; and/or the natural environment in general.

(d) Except as authorized by a permit obtained for such use from the Service Area, it shall be unlawful to:

- (1) Enter a natural area during the hours of 11:00 p.m. to 5:00 a.m., except:
  - a. As otherwise permitted by a sign posted by the Service Area opening or closing the particular area or a portion of the area for public use for a specified time or during specified hours; or
  - b. As necessary to participate as a registered or otherwise officially recognized participant in a City-sponsored or permitted event in a natural area.
- (2) Operate a motorized boat, other than one with a wakeless, electric trolling motor in a natural area.
- (3) Land or launch in a natural area, or fly lower than five hundred (500) feet above a natural area, any type of aircraft, including hot air balloons and hang gliders, except within takeoff or landing airways of a commercial airport or in emergency situations.
- (4) Remove, disturb or damage any archaeological, geological or paleontological materials from a natural area.
- (5) Remove from a natural area downed trees, logs or groupings of branches or sticks, or disturb or damage any of the same.
- (6) Collect seeds, plants or cuttings of trees, shrubs, vines, grasses, wildflowers or other plants in a natural area, or otherwise remove the same from a natural area.
- (7) Plant trees, shrubs, vines, grasses, wildflowers or other plants in a natural area.
- (8) Construct a structure in a natural area.
- (9) Build a campfire, bonfire or other fire in a natural area.
- (10) Allow livestock to graze in a natural area.
- (11) Feed, or attempt to feed, songbirds, squirrels, ducks, geese or any other wildlife species in a natural area.
- (12) Post a notice or sign, including fastening, displaying or depositing cards, posters or other written materials in a natural area, or to erect a display in a natural area, unless such items are incidental to another ongoing permitted activity and are specifically authorized by the permit for such activity.
- (13) Conduct or sponsor a group event in a natural area.
- (14) Perform a service for commercial gain or sell or offer to sell any item for commercial gain in a natural area.
- (15) Deposit rocks, wood, dirt or any other material in a natural area.
- (16) Release or otherwise introduce into a natural area an insect, bird or other animal.

- (17) Deposit or scatter in a natural area cremated remains of any human or animal origin.
- (18) Operate or park a motor vehicle or other motorized means of conveyance anywhere in a natural area other than on established roadways and in designated parking areas; provided, however, that a motorized wheelchair may be used by any person with a temporary or permanent mobility disability anywhere in a natural area that public access is allowed, and an other power-driven mobility device may be used in a natural area by any person with a temporary or permanent mobility disability, in accordance with City regulations regarding such use of other power-driven mobility devices.
- (19) Camp in a natural area.
- (20) Possess in a natural area any gun, pistol, crossbow, bow and arrow, slingshot or other firearm or weapon whatsoever, including BB guns or pellet or paintball guns, except as permitted by a City-issued or other lawfully issued permit.

(e) Research or public safety related training activities involving any of the activities prohibited in this Article, including without limitation the training of search and rescue dogs off-leash, may be authorized by the Service Area by permit in accordance with the procedures and standards set forth in § 23-194.

(Ord. No. 27, 1999, § 1, 3-2-99; Ord. No. 212, 2001, § 1, 1-15-02; Ord. No. 31, 2002, §§ 1, 2, 3-5-02; Ord. No. 93, 2003, §§ 1–3, 7-1-03; Ord. No. 018, 2006, § 5, 2-21-06; Ord. No. 191, 2006 §§ 2, 3 12-19-06; Ord. No. 210, 2006, § 4, 1-16-07; Ord. No. 004, 2007, § 13, 2-6-07; Ord. No. 167, 2011, § 2, 12-20-11)

**Sec. 23-194. Natural areas permit process.**

(a) Any person or organization seeking a permit for the purposes set forth in this Article shall apply for a natural area permit by filing a verified application with the Service Area on a form supplied by the Service Area, except that permit applications for which a routine permit process has been established by the Director under § 23-195 below shall be governed by and processed in accordance with the routine permit process. A fully completed application must be filed with the Director not less than seven (7) business days nor more than ninety (90) business days before the date on which a permitted activity is to commence; provided, however, that the Service Area may accept and process an application that is filed after the filing deadline if, in the judgment of the Director, there are sufficient time and sufficient resources for the Service Area to process and investigate the application and make any preparations necessary for the activity.

(b) The Director shall approve, conditionally approve or deny an application on the grounds set forth in this Subsection, and the Director's action and the basis therefor shall be stated in a written notice to the applicant, no later than five (5) business days after receipt of a fully completed application. The Director may deny any application or impose any reasonable permit conditions or requirements upon the approval of the same in order to protect the safety or well-being of persons or animals; the natural area, related facilities or any other City property or facility; the use and enjoyment of said areas or facilities by the general public; the needs and objectives of the City in maintaining and operating the same; and/or the natural environment in general.

(c) A permit decision by the Director under Subsection (b) above may be appealed to the City Manager pursuant to the appeals procedure set forth in Article VI of Chapter 2 of this Code. If a permit is denied for an activity or event consisting of speech or other expressive conduct that may be protected by the First Amendment to the United States Constitution, the permit applicant shall have the right to seek immediate judicial review of such denial without first appealing such denial to the City Manager.

(Ord. No. 27, 1999, § 1, 3-2-99; Ord. No. 129, 2002, § 11, 9-17-02; Ord. No. 018, 2006, § 6, 2-21-06; Ord. No. 210, 2006, § 5, 1-16-07; Ord. No. 004, 2007, § 14, 2-6-07)

**Sec. 23-195. Routine permit processes.**

The Director may establish an alternative permit process for any activity specified in Subsection 23-193(d) that is subject to standardized requirements and conditions. Issuance of a permit under any such routine permit process shall be on a first-come, first-served basis. A routine permit process for an activity such as camping may utilize an on-site

system located at the permitted camping area. In connection with and as a condition of any routine permit process, the payment of an administrative fee may be required by the City Manager pursuant to Chapter 7.5 of this Code. (Ord. No. 018, 2006, § 7, 2-21-06)

**Secs. 23-196—23-200. Reserved.**

## **ARTICLE X. PARKS, TRAILS AND RECREATION AREAS\***

### **Sec. 23-201. Purpose and scope.**

This Article establishes the standards for conduct within City-designated recreation areas and on City-designated trails by the general public. The requirements and prohibitions of this Article shall not apply to emergency response or law enforcement activities, or to City management and maintenance activities to the extent the operation of this Article would impair the performance of the same.

(Ord. No. 28, 1999, § 1, 3-2-99)

### **Sec. 23-202. Definitions.**

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

*Designated trail* shall mean any trail, whether paved or unpaved, maintained or unmaintained, designated by the City as a trail for use by the public by the posting of signs or by designation in the City's Parks and Recreation Policy Plan, excluding trails within the boundaries of City natural areas or within the curbs of City streets.

*Director* shall mean the Director of Cultural, Library and Recreation Services of the City.

*Group event* shall mean an event such as a picnic, class, fair or festival, or other activity, if such event:

- (1) Is reasonably expected to include as participants or spectators one hundred (100) or more persons; or
- (2) Constitutes an event or other special event as the same are defined in § 23.5-2, in which event any applicable requirements of Chapter 23.5 shall also apply.

*Hazardous substance* shall mean any chemical, compound, substance or mixture that state or federal law designates as hazardous because it is ignitable, corrosive, reactive or toxic, or any petroleum-based substance or by-product, including but not limited to solvents, degreasers, paint thinners, cleaning fluids, pesticides, adhesives, strong acids and alkalis, paints, inks, gasoline, oil and diesel fuel.

*Incidental trash* shall mean discarded items reasonably and actually used or consumed in the course of appropriate use of a recreation area, or packaging from the same, and shall not include household or yard waste, commercial or construction waste, or other waste brought into a recreation area for the purpose of disposal of such waste, or any hazardous substance.

*Mobility disability* shall mean a disability, as defined in Title II of the Americans with Disabilities Act, that limits an individual's mobility within a recreation area.

*Other power-driven mobility device* shall have the meaning ascribed to it by Title II of the Americans with Disabilities Act.

*Recreation area* shall mean any area designated and posted by the City as a City park, whether developed or undeveloped, a golf course or a designated trail, whether within or without the City limits.

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\* Cross-references—Parks and Recreation Board, § 2-336 et seq.; the Director of the Office of Cultural, Library and Recreational Services shall be in charge of the Department of Parks and Recreation, § 2-503; trapping of animals restricted in the city, § 4-120; city designated a bird sanctuary for the refuge of wild birds, § 4-156 et seq.; conservation trust fund created, § 8-75; neighborhood parkland fund created, § 8-80; recreation fund created, § 8-83; mobile home park areas for nonresident uses, § 18-11(c).

*Service Area* shall mean Cultural, Library and Recreation Services of the City.

*Waste* shall mean solid or liquid waste, except hazardous substances, whether organic or inorganic, including by way of illustration and not limitation, trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, tree limbs, glass, rags, discarded wearing apparel or any other discarded object. (Ord. No. 28, 1999, § 1, 3-2-99; Ord. No. 130, 2002, § 5, 9-17-02; Ord. No. 167, 2011, § 3, 12-20-11)

**Sec. 23-203. Prohibited acts; permits.**

(a) It shall be unlawful to:

- (1) Operate or park a motor vehicle or other motorized means of conveyance anywhere in a recreation area other than on established roadways and in designated parking areas; provided, however, that a motorized wheelchair may be used by any person with a temporary or permanent mobility disability, anywhere in a recreation area that public access is allowed, and an other power-driven mobility device may be used in a recreation area by any person with a temporary or permanent mobility disability, in accordance with City regulations regarding such use of other power-driven mobility devices.
- (2) Discard, dispose or release any waste or hazardous substance of any kind in a recreation area or in a manner reasonably likely to result in the entrance of such waste or hazardous substance into or upon a recreation area, except for the disposal of incidental trash generated from activities in the recreation area in receptacles provided and marked for disposal of trash.
- (3) Bring any glass container into a recreation area or possess the same while in any recreation area except when removing containers during site clean-up activities.
- (4) Bathe or wash any persons or objects in any waters of a recreation area, or otherwise in any manner reasonably likely to result in the release of any waste or hazardous substance in any waters of a recreation area.
- (5) Drive, hit or throw golf balls into or upon any recreation area, except City golf courses in accordance with the rules and regulations of the golf courses.
- (6) Knowingly or negligently harass wildlife, or permit or direct a dog, falcon or other animal under one's care or control to harass wildlife in a recreation area, whether or not the same results in injury to such wildlife.
- (7) Remove, destroy, mutilate, modify or deface any building, structure, water control device, fence, gate, notice, sign, tree, shrub or other plant or vegetation, animal or bird, or any other object in a recreation area, except during site clean-up activities, when taking fish in a manner otherwise permitted under this Article or as specifically allowed by permit issued pursuant to §§ 23-203 and 23-204.
- (8) Possess or consume in a recreation area any alcoholic beverage or possess any container, whether open or unopened, that contains or has been used to contain any alcoholic beverage, except on City golf courses in accordance with the rules and regulations of the golf courses, and except where allowed by a special event permit issued by the City's Liquor Licensing Authority.
- (9) Fish in a recreation area without a valid license as required by the Colorado Division of Wildlife, or in violation of any requirements of the Colorado Division of Wildlife, or possess a fish taken in violation thereof.
- (10) Fish in any waters on any City golf course.
- (11) Leave any fire unattended in a recreation area.
- (12) Bicycle on a tennis, volleyball or horseshoe court, or on any golf course except upon a roadway or parking area.
- (13) Deposit or scatter cremated remains of any human or animal in a recreation area.

(14) Ride a horse, bicycle, skateboard or other means of conveyance, or skate, in a reckless or unsafe manner in a recreation area.

(15) Violate the following in any recreation area:

- a. Division 5 of Chapter 4, regarding control of animals;
- b. Chapter 9, regarding fire prevention and protection;
- c. Chapter 11, regarding hazardous materials transportation;
- d. Section 12-20, prohibiting tampering with refuse or rubbish containers;
- e. Chapter 17, regarding miscellaneous offenses, including without limitation the discharge of weapons, trespass, loitering and disturbing the peace;
- f. Chapter 23.5, regarding special events; and
- g. Fort Collins Traffic Code or Chapter 28, regarding vehicles and traffic.

(b) Unless a sign has been posted by the Service Area that the particular recreation area or a portion thereof is open for such use, it shall be unlawful to:

- (1) Enter upon the ice of any waters of a recreation area.
- (2) Swim in the waters of a recreation area.
- (3) Operate a motorized model boat, car, truck, aircraft or other motorized model vehicle in a recreation area.
- (4) Launch a model rocket in, onto or over a recreation area.
- (5) Ride or have a horse in a recreation area more than ten (10) feet from a designated trail or roadway, or on any irrigated turf grass, except to the extent unavoidable circumstances require that a horse be ridden or taken into such areas briefly to avoid imminent danger to other persons.
- (6) Skateboard or in-line skate, except on a sidewalk, roadway, parking area or designated trail.

(c) No person shall engage in any conduct or activity within or upon a recreation area when a sign has been posted by the Service Area that such conduct or activity is not allowed in the recreation area or a portion of the area, based on a determination by the Service Area that such prohibition is appropriate to protect the safety or well-being of persons, or animals, or to protect or preserve the recreation area and related facilities, or any other City property or facility, the use and enjoyment of the same by the general public, or the needs and objectives of the City in maintaining and operating the same.

(d) Except as authorized by a permit obtained for such use from the Service Area, it shall be unlawful to:

- (1) Enter a recreation area during the hours of 11:00 p.m. to 5:00 a.m.
- (2) Operate a motorized boat in a recreation area.
- (3) Land or launch in a recreation area, or fly lower than five hundred (500) feet above a recreation area, any type of aircraft, including hot air balloons and hang gliders, except within takeoff or landing airways of a commercial airport or in emergency situations.
- (4) Remove archaeological, geological or paleontological materials from a recreation area.
- (5) Collect seeds, plants or cuttings of trees, shrubs, vines, grasses, wildflowers or other plants in a recreation area.
- (6) Plant trees, shrubs, vines, grasses, wildflowers or other plants in a recreation area.
- (7) Construct a structure in a recreation area.
- (8) Light a campfire, bonfire or other fire in a recreation area, except for fires in grills provided by the City or fires in portable grills or stoves on tables provided by the City.

- (9) Allow livestock to graze in a recreation area.
- (10) Feed, or attempt to feed, songbirds, squirrels, ducks, geese or any other wildlife species in a recreation area.
- (11) Post a notice or sign, including fastening, displaying or depositing cards, posters or other written materials in a recreation area, or to erect a display in a recreation area. Even when the posting or displaying of such items is authorized by a permit, no such items shall be left within the recreation area between the hours of 11:00 p.m. and 5:00 a.m.
- (12) Conduct or sponsor a group event in a recreation area.
- (13) Perform a service for commercial gain or sell or offer to sell any item for commercial gain in a recreation area.
- (14) Deposit rocks, wood or dirt in a recreation area.
- (15) Camp in a recreation area.

(e) Research or public safety related training activities involving any of the activities prohibited in this Article, including without limitation the training of search and rescue dogs off-leash, may be authorized by the Service Area by permit in accordance with the procedures and standards set forth in § 23-204.

(Ord. No. 28, 1999, § 1, 3-2-99; Ord. 212, 2001, § 2, 1-15-02; Ord. No. 31, 2002, §§ 3, 4, 3-5-02; Ord. No. 62, 2002, § 1, 5-7-02; Ord. No. 16, 2003, § 10, 2-18-03; Ord. No. 053, 2004, § 3, 4-20-04; Ord. No. 210, 2006, § 6, 1-16-07; Ord. No. 004, 2007, § 15, 2-6-07; Ord. No. 167, 2011, § 4, 12-20-11)

**Sec. 23-204. Recreation area permit process.**

(a) Any person or organization seeking a permit for the purposes set forth in this Article shall apply for a recreation area permit by filing a verified application with the Service Area on a form supplied by the Service Area. An application must be submitted and completed not less than ten (10) business days before the date on which a permitted activity is to commence; provided, however, that the Service Area may accept and process an application that is filed after the filing deadline if, in the judgment of the Director, there are sufficient time and sufficient resources to process and investigate the application and make any preparations necessary for the activity.

(b) The Director shall approve, conditionally approve or deny an application on the grounds set forth in this Subsection. The Director may condition the issuance of any permit by imposing reasonable requirements concerning the time, place and manner in which the proposed activity shall be permitted, and may deny any application or impose any reasonable permit conditions or requirements upon the approval of the same in order to protect the safety or well-being of persons, or animals, or to protect or preserve the recreation area and related facilities, or any other City property or facility, the use and enjoyment of the same by the general public or the needs and objectives of the City in maintaining and operating the same.

(c) A permit decision by the Director under Subsection (b) above may be appealed to the City Manager pursuant to the appeals procedure set forth in Article VI of Chapter 2 of this Code. If a permit is denied for an activity or event consisting of speech or other expressive conduct that may be protected by the First Amendment to the United States Constitution, the permit applicant shall have the right to seek immediate judicial review of such denial without first appealing such denial to the City Manager.

(Ord. No. 28, 1999, § 1, 3-2-99; Ord. No. 129, 2002, § 12, 9-17-02; Ord. No. 210, 2006, § 7, 1-16-07; Ord. No. 004, 2007, § 16, 2-6-07)

**Secs. 23-205—23-249. Reserved.**

**ARTICLE XI.  
OLD TOWN PLAZA RIGHT-OF-WAY**

**Sec. 23-250. Closure.**

(a) In order to better protect public safety and provide for improved maintenance within Old Town Plaza, certain City-owned property within Old Town Plaza will be closed during the early morning hours of each day. Specifically, that portion of the Linden Street right-of-way that is north of Mountain Avenue right-of-way and south of the Walnut Street right-of-way, as more particularly described in Ordinance No. 162, 2002, shall be closed for use by the public between the hours of 2:00 a.m. and 6:00 a.m. For the purpose of this Section, *Old Town Plaza* shall mean all publicly owned property within the areas bordered by College Avenue, Mountain Avenue and Walnut Street. The City Manager shall cause notice of such closure to be prominently posted at all entrances to the Old Town Plaza. No person shall enter or remain on property closed to public use under this Section during such hours of closure; provided, however, that in the event that the Downtown Development Authority extends the hours of operation of Old Town Plaza to accommodate an event sponsored or approved by the Downtown Development Authority, the hours of closure of the City-owned property governed by this Section shall coincide with the hours of closure of the property owned by the Downtown Development Authority in the Old Town Plaza.

(b) Subsection (a) of this Section shall not apply to emergency or law enforcement operations or to maintenance activities nor shall it apply to any owner, operator or employee of any business located within, or adjacent to, the Old Town Plaza who is traveling to or from the business property.  
(Ord. No. 162, 2002, § 1, 11-19-02)

**Secs. 23-251—23-300. Reserved.**

**ARTICLE XII.  
ART IN PUBLIC PLACES**

**Sec. 23-301. Purpose.**

The City recognizes that art is vitally important to the quality of life in the community. This Article is intended to encourage and enhance artistic expression and appreciation and to add value to the Fort Collins community through acquiring, exhibiting and maintaining public art.

The principal goals of the art in public places program are:

- (1) To enrich the public environment for both residents and visitors through the visual arts.
- (2) To increase public access to works of art and to promote understanding and awareness of the visual arts in the public environment.
- (3) To promote a variety of artistic expression in the community.
- (4) To contribute to the community's civic pride in its cultural diversity.
- (5) To support visual art.

In order to achieve these ends, this Article provides a means to fund the acquisition of works of art by the City, provides a means to select works of art and provides for the display, maintenance, repair and administration of the works of art.

(Ord. No. 20, 1995, § 1, 4-25-95; Ord. No. 47, 1998, § 1, 4-7-98)

**Sec. 23-302. Definitions.**

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

*APP reserve account* shall mean the art in public places reserve accounts established by this Article.

*Art in public places (or APP)* shall mean any visual work of art displayed for six (6) months or longer in any outdoor City-owned area, on the exterior of any City-owned facility, inside any City-owned facility in areas open to the public, or on non-City property open to the public if the work of art is financed, either wholly or in part, with City funds or grants procured by the City.

*Art in Public Places Board (or APP Board)* shall mean the Art in Public Places Board, as established and described in Chapter 2, Article III, Division 4, of this Code.

*Art in Public Places Coordinator (or APP Coordinator)* shall mean a City staff member designated by the Director of Cultural, Library and Recreation Services as the Art in Public Places Coordinator. The Coordinator will serve the APP Board as City staff liaison.

*Art in Public Places Guidelines (or APP Guidelines)* shall mean the guidelines, as approved by the City Council, for the selection of works of art; the placement and presentation of works of art; the maintenance, repair and care of works of art; the payment for works of art; and the acceptance of donations of works of art.

*Construction project* shall mean the construction, rehabilitation, renovation, remodeling, equipping or improvement of any building, structure, street, sidewalk, park, utility or other public improvement by or for the City, including all associated landscaping, parking, design, engineering and all other costs, but excluding the cost of real property acquisition and any improvements made by any special improvement district.

*Work of art* shall mean and include, but is not limited to, a sculpture, artistic monument, mural, fresco, relief, painting, fountain, banner, mosaic, ceramic, weaving, carving or stained glass. *Work of art* shall not include landscaping, paving, architectural ornamentation or signs, except when commissioned from an artist selected by the City. (Ord. No. 20, 1995, § 1, 4-25-95; Ord. No. 47, 1998, § 1, 4-7-98)

### **Sec. 23-303. Accounts established.**

(a) There is hereby established a reserve account within the cultural services and facilities fund to be known as the APP reserve account. Said reserve account shall be credited with such funds as the City Council may determine; with all funds from § 23-304, except funds from the light and power, water and wastewater or stormwater utilities; and with all funds received by the City for art in public places, whether contributed, earned, secured through grants or otherwise obtained. Monies credited to such account shall be expended only for the acquisition or lease of works of art, the maintenance, repair or display of works of art, and the expenses of administration of this Article.

(b) There are hereby established separate reserve accounts within the light and power fund, the sewer fund, the water fund and the storm drainage fund to be known as the APP reserve account for each such fund. Said reserve accounts shall be credited with such funds as the City Council may determine and with all funds from § 23-304 that are paid by the utility for which said fund was established. Monies credited to such reserve accounts shall be expended only for the acquisition or lease of works of art that provide a betterment to such utility or that are otherwise determined by the City Council to be for a specific utility purpose that is beneficial to the rate payers of such utility, and for the maintenance, repair or display of such works of art. Any limitations in other provisions of this Code on the purposes for which monies in the light and power fund, the sewer fund, the water fund or the storm drainage fund may be used shall not prohibit the use of monies in the APP reserve account for such fund from being expended for the acquisition or lease of works of art or for the maintenance, repair or display of works of art. (Ord. No. 20, 1995, § 1, 4-25-95; Ord. No. 47, 1998, § 1, 4-7-98)

### **Sec. 23-304. Funds for works of art.**

All requests submitted to the City Council for appropriations for construction projects estimated to cost over two hundred and fifty thousand dollars (\$250,000.) shall include an amount equal to one (1) percent of the estimated cost of such project for works of art. This requirement shall also apply to appropriations partially funding a project that will have a total estimated cost of over two hundred and fifty thousand dollars (\$250,000.) even if such individual appropriations are equal to or less than said amount. When the City Council approves the appropriations for any such project, one (1) percent of the appropriated amount shall be deposited into the appropriate reserve account. If any

construction project is partially funded from any source which precludes a work of art as an object of expenditure of such funds, the one (1) percent shall be funded from project funding sources that are not so restricted. Money collected in the APP reserve account shall be expended by the City for projects as prescribed by the APP Guidelines. (Ord. No. 20, 1995, § 1, 4-25-95; Ord. No. 47, 1998, § 1, 4-7-98)

**Sec. 23-305. Project design.**

In all construction projects costing between fifty thousand dollars (\$50,000.) and two hundred and fifty thousand dollars (\$250,000.) the project architect or engineer shall utilize a City-selected artist to participate in the design of the project for the purpose of incorporating works of art into all aspects of the project, both functional and aesthetic, to the fullest extent possible within the project budget. The cost of the artist's services shall be paid from the project budget.

(Ord. No. 20, 1995, § 1, 4-25-95; Ord. No. 47, 1998, § 1, 4-7-98)

**Sec. 23-306. Incorporating art in purchases.**

The City shall endeavor to include artistic and aesthetic values in all construction projects, including those costing less than fifty thousand dollars (\$50,000.), and in all purchases of personal property that may be located or used in places open to the public.

(Ord. No. 20, 1995, § 1, 4-25-95; Ord. No. 47, 1998, § 1, 4-7-98)

**Sec. 23-307. Administration.**

The Director of Cultural, Library and Recreation Services shall administer the provisions of this Article in a manner consistent with the APP Guidelines. The guidelines shall provide for the selection of works of art; the placement and presentation of works of art; the maintenance, repair and care of works of art; the payment for works of art; the acceptance of donations of works of art; and such other matters as the Director deems necessary and appropriate. The Director shall designate an APP Coordinator who will serve as staff liaison to the APP Board.

(Ord. No. 20, 1995, § 1, 4-25-95; Ord. No. 47, 1998, § 1, 4-7-98)

**Sec. 23-308. Acquisition of works of art.**

The APP Board shall make recommendations to the City Council concerning the use of reserve account funds in excess of ten thousand dollars (\$10,000.) for the acquisition, installation and maintenance of works of art. The construction project from which the reserve account funds were generated should generally be the site where the funds will be used. However, funds may be expended at other sites when the APP Board determines such expenditure is appropriate based on the considerations set forth in the guidelines. The APP Board may appoint a selection committee to make recommendations to the APP Board concerning the selection of artists, works of art and the placement of works of art. The selection committee may include artists, architects, City representatives and members of the public.

(Ord. No. 47, 1998, § 1, 4-7-98)

**Sec. 23-309. Acquisition of donated artwork.**

All works of art with a value of three hundred dollars (\$300.) or more donated to the City to be placed in a public area may be accepted only with approval of the APP Board, and all such works with a value of ten thousand dollars (\$10,000.) or more may be accepted only with approval of the City Council, upon review of such proposed donation and the recommendation of the APP Board. The City shall accept ownership and responsibility for maintenance only of works of art that meet the objectives of the APP Program, and the criteria for works of art and site selection set forth in the APP Guidelines. Funds for the installation and maintenance of donated works of art will come from the APP reserve account. Those works of art donated to the Fort Collins Museum for its collection purposes shall be exempt from this process.

(Ord. No. 47, 1998, § 1, 4-7-98)

**Sec. 23-310. Contracts for acquisition of public art.**

The City shall enter into a written agreement with the artist or donor of any work of art procured under the provisions of this Article, which agreement shall provide for the sale, lease or donation of the work of art and such other matters as the Purchasing Agent deems necessary.

(Ord. No. 47, 1998, § 1, 4-7-98)

**Secs. 23-311—23-349. Reserved.**

**ARTICLE XIII.  
LAND BANKING**

**Sec. 23-350. Purpose.**

The purpose of this Article is to enable the City to acquire, hold and sell real property for the purpose of assisting housing providers (whether publicly affiliated, philanthropic or profit-motivated) in providing rental housing for households at or below fifty (50) percent of the area median income for Fort Collins ("AMI") and homeownership housing for households at or below sixty (60) percent of AMI.

This Article will assist the City in providing land that developers can feasibly purchase for affordable housing; will help to ensure that appropriate sites are available in the future for the development of such housing; will assist in the early identification of sites for affordable housing development so that adjacent property owners will be aware and accepting of the plans for such sites; and will systematically secure affordable housing sites so that such developments can be dispersed throughout the community by strategically selecting sites for affordable housing projects in desirable locations.

(Ord. No. 48, 2001, 4-17-01)

**Sec. 23-351. Authority.**

The City Manager is authorized on behalf of the City to acquire land for the purposes set forth in § 23-350 and to perform all acts necessary to effectuate the acquisition of such land, provided that funds have first been appropriated by the City Council for said purpose and that such acquisitions comply with the criteria for acquisition as set out in § 23-352.

(Ord. No. 48, 2001, 4-17-01)

**Sec. 23-352. Criteria.**

The City Manager shall acquire land under the authority granted in § 23-351 only if the acquisition complies with the following criteria:

- (1) The land is acquired from a willing seller (without the threat of condemnation).
- (2) The cost of acquiring the land does not, in the opinion of the City Manager, exceed the fair market value thereof.
- (3) Either at the time of acquisition the land is, or within the reasonably foreseeable future in the judgment of the City Manager, the land will be, within one-half (½) mile of at least three (3) of the following five (5) existing or planned facilities:
  - a. Transit route;
  - b. School;
  - c. Park;
  - d. Employment center; and
  - e. Commercial center.

- (4) The land is located within the Fort Collins Growth Management Area.

(Ord. No. 48, 2001, 4-17-01)

**Sec. 23-353. Funding.**

The acquisition of land pursuant to this Article shall be funded from the Affordable Housing Trust Fund.  
(Ord. No. 48, 2001, 4-17-01)

**Sec. 23-354. Disposition of land bank property.**

In addition to the criteria established for the disposition of property in Article IV of this Chapter, no property acquired pursuant to this Article shall be sold by the City except in accordance with the following criteria:

- (1) Any disposition/sale of such property shall be to a housing provider legally bound to the City under the terms of such sale to provide rental housing for households at or below fifty (50) percent of AMI and/or homeownership housing for households at or below sixty (60) percent of AMI ("affordable housing") as the sole development purpose. Such sale shall not be made to any person for the purpose of land speculation or appreciation or for the development of nonresidential uses or the provision of market rate housing.
- (2) Upon acquisition of the property from the City, the housing provider shall commence development of all housing within twenty-four (24) months of having acquired the land and shall obtain building permits for the construction of all such housing units within forty-eight (48) months of acquisition of the property. If all such building permits have not been obtained by the housing provider within the aforesaid periods of time, then title to that portion of the property for which building permits have not been issued shall revert to the City. Said possibility of reverter shall be contained in any deeds conveying said land to such housing provider. Any extension of the aforesaid periods of time shall be valid only if approved by the City Manager upon finding that the housing provider has exerted a good faith and diligent effort in pursuing the development but has suffered delays caused by unforeseen circumstances not reasonably within the control of the housing provider.
- (3) If any property sold by the City for affordable housing under the authority of this Section is subsequently resold by the original housing provider, the purchaser and any subsequent owners of such property must continue to use such property for affordable housing. If said property is ever not so used, then the City may re-enter and recover title to all such property. The deed conveying the property from the City to such housing provider shall contain such right of entry for condition broken, which provision shall run with the title to the property.
- (4) All land conveyed to a housing provider by the City pursuant to this Article shall be sold to such housing provider at no more than ninety (90) percent of its fair market value as determined by the City.

(Ord. No. 48, 2001, 4-17-01)

**Sec. 23-355. Proceeds of sale.**

All proceeds of any sale of land in accordance with § 23-354 shall be returned to the affordable housing trust fund to be used for additional land acquisitions in accordance with this Article.

(Ord. No. 48, 2001, 4-17-01)

**Secs. 23-356—23-379. Reserved.**

**ARTICLE XIV.  
LOCATION MARKINGS ON PUBLIC PROPERTY**

**Sec. 23-380. Definitions.**

The following words and phrases, when used in this Article, shall have the meanings respectively ascribed to them unless the context otherwise clearly indicates:

*City right-of-way* shall mean an area dedicated to public use or impressed with an easement for public use which is owned or maintained by the City and is primarily used for pedestrian or vehicular travel or for public utilities or other infrastructure. *City right-of-way* shall include, but not be limited to, the street, gutter, curb, shoulder, sidewalk, sidewalk area, parking area and any other public way.

*Decorative surfaces* shall mean those surfaces that are composed of ornamental materials or embellished for decorative purposes, such as those found on pavers, exposed aggregate and stamped or stained concrete.

*Marking* or *mark* shall mean any mark, or the process of making such mark, on City right-of-way or public improvements in the City to show the location of underground facilities, or to mark other design or construction-related specifications, features or limits.

*Notification association* shall mean the statewide notification association of owners and operators of underground facilities created in Colorado Revised Statutes § 9-1.5-105.

*Old Town Area* shall mean all public property and public improvements within the area bordered on the north by the southern boundary of the Poudre River; on the west by the western boundary of the Meldrum Street right-of-way, extended to the Poudre River; on the south by the southern boundary of the Mulberry Street right-of-way; and on the east by the western boundary of the Poudre River.

*Public improvements* shall mean any improvement, fixture or addition to real property or publicly owned facilities, whether permanent or not, made by a public entity. (Ord. No. 161, 2008, 1-6-09)

**Sec. 23-381. Prohibited markings; limitations.**

(a) No person shall mark any City right-of-way or public improvements in the City with a marking that is more extensive than necessary to reasonably identify the location intended to be marked.

(b) No person shall mark City-owned property without the City's permission, which permission may be obtained by utilizing either the notification association or calling the City Utilities locates section. All such markings shall be made in accordance with the requirements of this Section and shall also comply with any applicable administrative standards.

(c) All markings on any decorative surfaces in the City and all markings on any right-of-way or public improvement in the Old Town Area must be made with chalk-based paint except for markings that are made:

- (1) On drive lanes, parking lots or other areas designed for vehicular traffic; or
- (2) On areas that will be excavated or obscured from view by the placement of permanent fixtures or by the installation of landscaping within forty-five (45) days of the marking.

(d) All markings made with water-based paint must be removed within forty-five (45) days after the markings were made unless such markings were made on either of the areas specified in Subparagraph (c)(1) or (c)(2) of this Section. The method used for removing markings must not destroy or materially alter the rights-of-way or other improvements and must fully comply with applicable water quality requirements, as set forth in § 26-498. Any party that requests a marking through the notification association shall be responsible for removal of the marking. If a marking is not made through the notification association, the last person causing the marking to be made is solely responsible for removal of the marking. (Ord. No. 161, 2008, 1-6-09)

**Sec. 23-382. Penalty.**

(a) Any person who violates any provision of this Article commits a misdemeanor criminal offense and, upon conviction, shall be subject to the provisions of § 1-15. Each day such violation is committed or permitted to continue shall constitute a separate offense.

(b) As an additional means of enforcement, and not as an alternative to or substitute for prosecution for violation of the provisions of this Article, the City may remove or eradicate any markings which are not removed pursuant to the provisions of this Article and charge the party responsible for such removal the full cost incurred by the City to effect such removal. Any such costs incurred shall be immediately due and payable, and interest on such amounts due shall accrue at the statutory rate applicable to judgment awards. The City Manager may collect such amounts using any methods legally available, including conditioning of future licenses, permits or other grants or approvals, or renewals of the same, upon payment of any unpaid balance due hereunder. (Ord. No. 161, 2008, 1-6-09)

