

## CHAPTER 1

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**ARTICLE I**

**Code**

**Sec. 1-1-10. Adoption of Code.**

The published code known as the Rifle Municipal Code, published by Colorado Code Publishing Company, of which one (1) copy is now on file in the office of the City Clerk and may be inspected during regular business hours, is enacted and adopted by reference as a primary code and incorporated herein as if set out at length. This primary code has been promulgated by the City of Rifle, Colorado, as a codification of all the ordinances of the City of Rifle of a general and permanent nature through Ordinance 4, 2005, for the purpose of providing an up-to-date code of ordinances, properly organized and indexed, in published form for the use of the citizens and officers of the City. (Prior code 1.01.020, 1.01.150; Ord. 4 §1, 2005)

**Sec. 1-1-20. Title and scope.**

This Code constitutes a compilation, revision and codification of all the ordinances of the City of Rifle, Colorado, of a general and permanent nature, and shall be known as the *Rifle Municipal Code*. (Prior code 1.01.010; Ord. 4 §1, 2005)

**Sec. 1-1-30. Reference applies to amendments.**

Whenever a reference is made to this Code as the *Rifle Municipal Code*, to any portion thereof or to any ordinance of the City, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Prior code 1.01.030; Ord. 4 §1, 2005)

**Sec. 1-1-40. Adoption of secondary codes by reference.**

Secondary codes may be adopted by reference, as provided in the Charter. (Ord. 4 §1, 2005)

**Sec. 1-1-50. Code supersedes prior ordinances.**

This Code shall supersede all other municipal codes consisting of compilations of general and permanent ordinances and parts of ordinances passed by the City Council. (Ord. 4 §1, 2005)

**Sec. 1-1-60. Repeal of ordinances not contained in Code.**

All existing ordinances and portions of ordinances of a general and permanent nature which are inconsistent with any ordinance included in the adoption of this Code are hereby repealed to the extent of

any inconsistency therein as of the effective date of the ordinance adopting this Code, except as hereinafter provided. (Prior code 1.01.090; Ord. 4 §1, 2005)

**Sec. 1-1-70. Matters not affected by repeal.**

The repeal or amendment of ordinances and parts of ordinances of a permanent and general nature by Section 1-1-50 of this Chapter shall not affect any offense committed or act done, any penalty or forfeiture incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed. (Prior code 1.01.080; Ord. 4 §1, 2005)

**Sec. 1-1-80. Ordinances saved from repeal.**

The continuance in effect of temporary and/or special ordinances and parts of ordinances, although omitted from this Code, shall not be affected by such omission therefrom, and the adoption of this Code shall not repeal or amend any such ordinance or part of any such ordinance. Among the ordinances not repealed or amended by the adoption of this Code are ordinances:

- (1) Creating, opening, dedicating, naming, renaming, specific streets, alleys and other public ways.
- (2) Establishing the grades or lines of specific streets, sidewalks and other public ways.
- (3) Creating specific sewer and paving districts and other local improvement districts.
- (4) Authorizing the issuance of general obligation or specific local improvement district bonds.
- (5) Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.
- (6) Annexing territory to or excluding territory from the City.
- (7) Dedicating or accepting any specific plat or subdivision.
- (8) Calling or providing for a specific election.
- (9) Authorizing specific contracts for purchase of beneficial use of water by the City.
- (10) Approving or authorizing specific contracts with the State, with other governmental bodies or with others.
- (11) Authorizing a specific lease, sale or purchase of property.
- (12) Accepting any gift, devise, license or other benefit.
- (13) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.
- (14) Granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys.

(15) Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.

(16) Appropriating money.

(17) Levying a temporary tax or fixing a temporary tax rate.

(18) Relating to salaries.

(19) Amending the Official Zoning Map. (Prior code 1.01.100; Ord. 4 §1, 2005)

**Sec. 1-1-90. Changes in previously adopted ordinances.**

In compiling and preparing the ordinances of the City for adoption and revision as part of this Code, certain grammatical changes and other changes were made in one (1) or more of said ordinances. It is the intention of the City Council that all such changes be adopted as part of this Code as if the ordinances so changed had been previously formally amended to read as such. (Ord. 4 §1, 2005)

**ARTICLE II**

**Definitions and Usage**

**Sec. 1-2-10. Definitions.**

The following words and phrases, whenever used in the ordinances of the City of Rifle and/or this Code or any codification of the same, shall be construed as defined in this Section, unless a different meaning is intended from the context or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

*City* means the City of Rifle, Colorado, or the area within the territorial limits of the City of Rifle, Colorado, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.

*City Council* means the City Council of the City of Rifle.

*Code* means the Rifle Municipal Code as published and subsequently amended, unless the context requires otherwise.

*County* means the County of Garfield, Colorado.

*C.R.S.* means the Colorado Revised Statutes, including all amendments thereto.

*Law* denotes applicable federal law, the Constitution and statutes of the State of Colorado, the ordinances of the City and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

*May* is permissive.

*Misdemeanor* means and is to be construed as meaning *violation* and is not intended to mean *crime* or *criminal conduct*.

*Month* means a calendar month.

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

*Ordinance* means a law of the City; provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.

*Owner*, applied to a building, land, motorized vehicle, animal or other real or personal property, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety or any other person with a possessory interest in the whole or a part of said building, land, motor vehicle, animal or other real or personal property.

*Person* means natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust, or the manager, lessee, agent, servant, officer, estate or employee of any of them;

*Personal property* includes money, goods, chattels, things in action and evidences of debt.

*Preceding* and *following* mean next before and next after, respectively.

*Property* includes real and personal property.

*Real property* includes lands, tenements and hereditaments.

*Shall* and *must* are both mandatory.

*Sidewalk* means that portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

*State* means the State of Colorado.

*Street* includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in the City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

*Tenant* and *occupant*, applied to a building or land, includes any person who occupies all or a part of such building or land, whether alone or with others.

*Written* includes printed, typewritten, mimeographed, multigraphed or otherwise reproduced in permanent visible form.

*Year* means a calendar year. (Prior code 1.01.050; Ord. 4 §1, 2005)

**Sec. 1-2-20. Computation of time.**

The time within which an act is to be done shall be computed by excluding the first and including the last day; but if the time for an act to be done shall fall on Saturday, Sunday or a legal holiday, the act shall be done upon the next regular business day following such Saturday, Sunday or legal holiday. (Ord. 4 §1, 2005)

**Sec. 1-2-30. Title of office.**

The use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the City, or his or her designated representative. (Prior code 1.01.050; Ord. 4 §1, 2005)

**Sec. 1-2-40. Usage of terms.**

All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such peculiar and appropriate meaning. (Ord. 4 §1, 2005)

**Sec. 1-2-50. Grammatical interpretation.**

The following grammatical rules shall apply to this Code and to City ordinances:

- (1) Any gender includes the other genders.
- (2) The singular number includes the plural and the plural includes the singular.
- (3) Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.
- (4) Words and phrases not specifically defined shall be construed according to the context and approved usage of the language. (Prior code 1.01.050; Ord. 4 §1, 2005)

**ARTICLE III**

**General**

**Sec. 1-3-10. Titles and headings not part of Code.**

Chapter and Article titles, headings, numbers and titles of sections and other divisions in this Code or in supplements made to this Code are inserted in this Code, may be inserted in supplements to this Code for the convenience of persons using this Code, and are not part of this Code. (Prior code 1.01.060; Ord. 4 §1, 2005)

**Sec. 1-3-20. Authorized acts.**

When this Code requires an act to be done which may as well be done by an agent or representative as by the principal, such requirement shall be construed to include all such acts performed when done by an authorized agent or representative. (Ord. 4 §1, 2005)

**Sec. 1-3-30. Prohibited acts.**

Whenever in this Code or any City ordinance any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Ord. 4 §1, 2005)

**Sec. 1-3-40. Purpose of Code.**

The provisions of this Code, and all proceedings under them, are to be construed with a view to effect their objectives and to promote justice. (Ord. 4 §1, 2005)

**Sec. 1-3-50. Repeal of ordinances.**

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby. (Ord. 4 §1, 2005)

**Sec. 1-3-60. Supplementation of Code.**

(a) The City Council shall cause supplementation of this Code to be prepared and printed from time to time as it may see fit. All substantive, permanent and general parts of ordinances passed by the City Council or adopted by initiative and referendum, and all amendments and changes in temporary and special ordinances or other measures included in this Code prior to the supplementation and since the previous supplementation, shall be included.

(b) It shall be the duty of the City Clerk, or someone authorized and directed by the City Clerk, to keep up to date the one (1) certified copy of the book containing this Code required to be filed in the office of the City Clerk for the use of the public. (Ord. 4 §1, 2005)

**Sec. 1-3-70. Examination of Code.**

The City Attorney and City Clerk shall carefully examine at least one (1) copy of the Code adopted by this ordinance to see that it is a true and correct copy of this Code. Similarly, after each supplement has been prepared, printed and inserted in this Code, the City Attorney and City Clerk shall carefully examine at least one (1) copy of this Code as supplemented. The copy of this Code as originally adopted or amended shall constitute the permanent and general ordinances of the City and shall be so accepted by the courts of law, administrative tribunals and all others concerned. (Ord. 4 §1, 2005)

**Sec. 1-3-80. Copy of Code on file.**

At least one (1) certified copy of this Code is on file at the office of the City Clerk and may be inspected by the public during regular business hours, but may not be removed from the City Clerk's office except upon proper order of a court of law. (Prior code 1.01.150; Ord. 4 §1, 2005)

**Sec. 1-3-90. Sale of Code books.**

Copies of this Code shall be available for purchase by the public upon the payment of a fee to be set by resolution of the City Council. (Prior code 1.01.150; Ord. 4 §1, 2005)

**Sec. 1-3-100. Severability.**

The provisions of this Code are declared to be severable, and if any section, subsection, sentence, clause, phrase, portion, or part of this Code is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this code, it being the legislative intent that this Code would have been adopted even if such unconstitutional matter had not been included therein. It is further declared that, if any provision or part of this Code, or the application thereof to any person or circumstances, is held invalid, the remainder of this Code and the application thereof to other persons shall not be affected thereby. (Prior code 1.01.140; Ord. 4 §1, 2005)

**Sec. 1-3-110. Administrative fees and charges.**

The City Council is authorized to establish administrative fees and charges for all departments of the City. The amount of such fees and charges shall be established by resolution of the City Council and may be amended from time to time by resolution. Such fees and charges shall be posted at City Hall or in the appropriate office of the department. (Ord. 23 §4, 2007)

**ARTICLE IV**

**General Penalty**

**Sec. 1-4-10. Violations.**

It is a violation of this Code for any person to do any act which is forbidden or declared to be unlawful or to fail to do or perform any act required in this Code. (Ord. 4 §1, 2005)

**Sec. 1-4-20. General penalty for violation.**

(a) Any person who violates or fails to comply with any provision of this Code or any rule or regulation promulgated thereunder, for which a different penalty is not specifically provided, shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars (\$1,000.00), by incarceration not to exceed one (1) year, or by both such fine and incarceration, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case, including attorney fees.

(b) Each day such violation continues shall be considered a separate offense. (Prior code 2.12.180; Ord. 4 §1, 2005)

**Sec. 1-4-30. Application of penalties to juveniles.**

(a) For the purposes of this Section, a *minor offender* is defined as any person accused of an offense contrary to this Code who, on the date of the alleged offense, was at least ten (10) years of age, but not yet eighteen (18) years of age.

(b) Except as to alleged violations of the Model Traffic Code, as adopted by reference in Chapter 8 of this Code, any minor offender convicted of or pleads guilty or nolo contendere to a violation of this Code shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count, unless otherwise provided by the specific section alleged to have been violated. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code. Any minor offender convicted or found liable for violating any provision of the Model Traffic Code as adopted in Chapter 8 of this Code may be punished by a fine of not more than one thousand dollars (\$1,000.00), by incarceration not to exceed ninety (90) days, or by both such fine and incarceration.

(c) Nothing contained in this Code shall be construed to abrogate, abolish or otherwise limit the power of the Municipal Court to incarcerate a minor offender for contempt of court, whether by failure to obey a summons, subpoena or other lawful order of the court, including an order to pay a fine, or by personal conduct before the court. In addition, the Municipal Court may incarcerate a minor offender for violation of probation conditions imposed by the court. The Municipal Court shall have authority to order a minor offender confined in a juvenile detention facility operated or contracted by the Department of Institutions. If a juvenile facility is not available, or is not located within the County or within forty (40) miles of the County Jail, the minor offender may be confined in an adult facility so long as he or she is separated from adult offenders as required by Section 19-2-204(4), C.R.S. Any confinement of a child for contempt of Municipal Court or for violation of probation conditions shall not exceed forty-eight (48) hours.

(d) Upon the request of the Municipal Court, the prosecuting attorney or the defendant, the Municipal Court Clerk shall issue a subpoena for the appearance, at any and all stages of the court's proceedings, of the parent, guardian or lawful custodian of any child under eighteen (18) years of age who is charged with an offense under this Code.

(e) The Municipal Judge may promulgate such rules or orders regarding the procedural processing of minor offenders appearing before the Municipal Court as he or she may, from time to time, deem appropriate. (Prior code 2.12.190; Ord. 4 §1, 2005)

**Sec. 1-4-40. Altering or tampering with Code; penalty.**

Any person who shall alter, change or amend this Code, except in the manner prescribed in this Chapter, or who shall alter or tamper with this Code in any manner so as to cause the ordinances of the City to be misrepresented thereby, shall, upon conviction thereof, be punishable as provided by Section 1-4-20 hereof. (Ord. 4 §1, 2005)

**Sec. 1-4-50. Penalty for violations of ordinances adopted after adoption of Code.**

Any person who violates any provision of an ordinance of a permanent and general nature passed or adopted after adoption of this Code, either before or after it has been inserted in this Code by a supplement, shall, upon conviction thereof, be punishable as provided by Section 1-4-20 unless another penalty is specifically provided for the violation. (Ord. 4 §1, 2005)

**Sec. 1-4-60. Interpretation of unlawful acts.**

Whenever in this Code any act or omission is made unlawful, it is also unlawful to cause, allow, permit, aid, abet or suffer such unlawful act or omission. Concealing or in any manner aiding in the concealing of any unlawful act or omission is similarly unlawful. (Ord. 4 §1, 2005)

**ARTICLE V**

**Inspections**

**Sec. 1-5-10. Entry.**

Whenever necessary to make an inspection to enforce any provision of this Code or any ordinance, or whenever there is probable cause to believe that there exists an ordinance violation in any building or upon any premises within the jurisdiction of the City, any public inspector of the City may, upon presentation of proper credentials and upon obtaining permission of the occupant or if unoccupied, the owner, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him or her by ordinance. In the event the occupant, or if unoccupied, the owner, refuses entry to such building or premises, or the public inspector is unable to obtain permission of such occupant or owner to enter such building or premises, the public inspector is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Ord. 4 §1, 2005)

**Sec. 1-5-20. Authority to enter premises under emergency.**

Law enforcement officers certified with the State, members of the Fire Department, other fire departments operating under a mutual assistance agreement or automatic aid agreement with the City, certified emergency medical technicians and paramedics during the course of employment with a governmental agency are hereby granted the authority to enter private residences within the City without invitation from the occupant of the residence at any time such person has reasonable grounds to believe a medical emergency is in progress within the subject premises and the occupant of such premises is incapable of consenting to the entry because of such medical emergency. (Ord. 4 §1, 2005)

**Sec. 1-5-30. Announcement of purpose and authority to enter premises.**

Unauthorized entry pursuant to Section 1-5-20 shall be permissible only after the individuals seeking entry have announced both their purpose and authority in a loud and conspicuous voice and have waited a reasonable period of time for the occupant to respond before making entry. (Ord. 4 §1, 2005)

## **ARTICLE VI**

### **Seal**

#### **Sec. 1-6-10. Adoption of seal.**

A seal for the City is adopted and shall take the form of two (2) concentric circles, a smaller circle within the larger circle, and between the two (2) circles at the top shall be the words "City of Rifle," and at the bottom of the circle "Garfield County, Colorado." Across the center of the small circle shall be the word "SEAL." (Prior code 1.04.010)

## **ARTICLE VII**

### **Procedures for Hearings**

#### **Sec. 1-7-10. Purpose and applicability.**

The purpose of this Article is to provide a uniform, consistent and expeditious method of procedure for the conduct of all quasi-judicial hearings held before the City Council; any board, commission, official or employee of the City; or any hearing officer appointed to hear and receive evidence and render a decision on the law and facts. The provisions of this Article shall be applied uniformly in all applicable hearings. The rules contained in this Article may be supplemented by the adoption of further rules of procedure, not inconsistent with such rules, duly adopted prior to any hearing by the hearing body, official, employee or hearing officer. All rules adopted to supplement the provisions of this Article by any board, commission, official, employee or hearing officer shall be reduced to writing and copies thereof shall be made available to the public. (Prior code 1.08.010; Ord. 4 §1, 2005)

#### **Sec. 1-7-20. Quasi-judicial hearings.**

The provisions of this Article shall apply to those hearings where the City Council, board, commission, official, employee or hearing officer is called upon to exercise powers of a judicial or quasi-judicial nature, which shall include but not be limited to the following:

- (1) Hearings before the City Council upon application for the issuance of, or for the suspension or revocation of, a liquor or fermented malt beverage license, or any other license for which the City Council acts as local licensing authority.
- (2) Hearings before any board, commission or official appealing the issuance, suspension or revocation of other licenses or permits issued by the City, when such an appeal is otherwise authorized and requires an evidentiary hearing to determine such appeal.
- (3) All land use and development hearings conducted pursuant to Chapter 16 of this Code.
- (4) Personnel hearings.
- (5) Appeals from any decision of the Building Official.

(6) All appeals from the decisions of any official, board or commission, where such an appeal is otherwise authorized and requires an evidentiary hearing to determine such appeal. (Prior code 1.08.020; Ord. 4 §1, 2005)

**Sec. 1-7-30. Rules of procedure.**

All quasi-judicial hearings shall be conducted under procedures designed to ensure all interested parties due process of law and shall, in all cases, provide for the following:

(1) The board, commission, official, employee or hearing officer conducting the hearing shall have authority to administer oaths and affirmations; rule upon offers of proof; compel testimony; receive evidence; dispose of motions relating to discovery and production of relevant documents and things for inspection, copying or photocopying; regulate the course of the hearing; fix the time for filing of briefs and other documents; direct the parties to appear and confer to consider simplification of issues, admissions of facts or documents to avoid unnecessary proof and limitation of the number of witnesses; issue appropriate orders to control the subsequent course of the proceedings; dispose of motions; and control the decorum and conduct of the proceeding.

(2) Any board, commission, official, employee or hearing officer conducting a quasi-judicial hearing shall have the power to issue subpoenas compelling testimony or the production of documents. Pursuant to Section 13-10-112(2), C.R.S., the Municipal Judge shall have the power to enforce said subpoenas.

(3) Unless otherwise agreed to by the parties, all testimony shall be taken under oath or by affirmation.

(4) The hearing need not be conducted according to the technical rules relating to evidence and witnesses.

(5) Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions in courts of competent jurisdiction in the State.

(6) Any relevant evidence shall be admitted if it is the type of evidence on which responsible parties are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law, statute or court rules which might make the admission of such evidence improper. Evidence which is reasonably reliable and calculated to aid the hearing body, official or officer in reaching an accurate determination of the issues involved may be considered.

(7) Irrelevant and unduly repetitious evidence shall be excluded.

(8) The board, commission, official, employee or hearing officer conducting the hearing shall be permitted at the hearing to continue the hearing, for good cause, to another date, time and place. In such an event, no advertised public notice of such continued hearing shall be required.

(9) In reaching a decision, official notice may be taken, whether before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of the State, or of official records, ordinances, rules and regulations of the City. Interested parties present at the hearing shall be

informed of the matters to be noticed. These matters shall be noted in the record, referred to therein or appended thereto. Interested parties shall be given a reasonable opportunity, upon request, to refute the officially noticed matters by evidence or by written or oral presentation of authority.

(10) All hearings shall be open to the public unless otherwise authorized or permitted by applicable law.

(11) A record of the entire proceedings shall be made by tape recording or any other means of permanent recording determined to be appropriate by the board, commission, official, employee or hearing officer conducting the hearing. The tape recording shall be retained by the board, commission, official, employee or hearing officer for at least six (6) months following the hearing. The custodian of the record shall have the authority to prescribe reasonable rules and regulations regarding copying, listening to or preparing a transcript of the recording. (Prior code 1.08.030; Ord. 4 §1, 2005)

#### **Sec. 1-7-40. Order of procedure.**

(a) In all quasi-judicial hearings, the following order of procedure shall be followed, unless otherwise determined by the body or person conducting the hearing:

(1) All documents or other items of physical evidence shall be marked prior to the hearing as exhibits, with such identifying symbols as may be necessary to determine the exhibit referred to by any witness or other person.

(2) Presentation of those documents showing the regularity of the commencement of the proceedings and the form of the public notice given, if required.

(3) Presentation by City staff of its position on the matter at issue, if any, followed by questions to the staff by members of the board or commission.

(4) Presentation of evidence by the applicant, petitioner, appealing party or complainant.

(5) Presentation of evidence in support of the applicant, petitioner, appealing party or complainant by any other person.

(6) Presentation of evidence from any person opposing the application, petition, appeal or complaint.

(7) Presentation of evidence in rebuttal to the matters presented by the opposing party.

(b) Unless the hearing is continued, the board, commission, official, employee or hearing officer shall thereupon close the public hearing, and no further evidence or testimony may be presented or considered. (Prior code 1.08.050; Ord. 4 §1, 2005)

#### **Sec. 1-7-50. Appointment of hearing officer.**

In any hearing upon application for the issuance of, or hearing for the suspension or revocation of, a liquor or fermented malt beverage license; any personnel hearing; and any other hearing when it is necessary to avoid a conflict of interest, the board, commission, official or employee called upon to

render a decision may appoint one (1) or more hearing officers, who have not determined the factual issues in controversy and have no personal financial interest in the outcome of the hearing, to conduct the required hearing. The hearing officer shall hear and receive evidence and render a decision on the applicable law and the facts. The hearing officer shall have all the authority possessed by the board, commission, official or employee to render decisions; however, if required by applicable law, only the board, commission, official or employee possessing the authority shall take formal action on the matters at issue, following issuance of the hearing officer's decision on the law and facts. (Prior code 1.08.060)

**Sec. 1-7-60. Deliberation and notice of decision.**

If the final decision or formal action is required to be made by a board or commission, no decision or formal action shall be effective, except upon a vote of the members of said board or commission, conducted in an open session thereof, which shall be duly recorded in the minutes of the board or commission. Unless otherwise prohibited by law, a member of a board or commission who was not present during all or any part of a hearing may vote or take part in the factual determination if he or she has reviewed the entire record of the proceedings and indicates that he or she has done so before participating. The board, commission, official, employee or hearing officer may issue an oral decision immediately upon conclusion of the evidentiary hearing. If no decision is issued at the hearing, said decision shall be rendered in writing within the time limits provided by applicable law. If no specific time limit is provided, the decision shall be rendered no later than twenty (20) days following the conclusion of the hearing. Said written decision shall contain findings of fact and conclusions of law, setting forth the grounds of the decision, based on the evidence presented at the hearing. Copies of the written decision shall be delivered to the applicant, petitioner, appellant, complainant and other interested parties requesting the same unless otherwise prohibited by applicable law. (Prior code 1.08.070)

**Sec. 1-7-70. Judicial enforcement and review.**

(a) Any party aggrieved by any decision rendered by the hearing body, official, employee or hearing officer in any quasi-judicial hearing may apply to have said decision reviewed by a court of competent jurisdiction, in accordance with the provisions of the Colorado Rules of Civil Procedure and any other applicable law. Said appeal shall be filed with the court within thirty (30) days following the issuance of the final decision or the formal action, unless another ordinance, rule or statute prescribes a different time limit. If the applicable ordinance or law provides for further administrative appeals of the decision, the party must exhaust all such appellate remedies before appealing the matter to the courts.

(b) In the event that an appeal is taken to another administrative body, board or commission or to the City Council, such appeal will be made upon the basis of the record presented at the initial hearing, and no additional evidence shall be introduced, unless the hearing is reopened for the hearing of additional evidence following notice to all parties who appeared at the initial hearing. (Prior code 1.08.080; Ord. 4 §1, 2005)

## ARTICLE VIII

### Disposition of Abandoned Personal Property

#### Sec. 1-8-10. Purpose.

The purpose of this Article is to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the City. (Prior code 13.28.010)

#### Sec. 1-8-20. Definitions.

Unless otherwise specifically provided herein, the following terms shall have the definitions ascribed to them:

*Owner* means a person or a duly authorized legal representative or successor in interest of such person, owning unclaimed property held by the City.

*Unclaimed property* means any tangible or intangible property, including any income or increment derived therefrom, less any lawful charges, that is held by or under the control of the City and which has not been claimed by its owner for a period of more than one (1) year after it became payable or distributable. *Unclaimed property* does not include abandoned motor vehicles, as provided elsewhere in this Code. (Prior code 13.28.020; Ord. 4 §1, 2005)

#### Sec. 1-8-30. Procedure for disposition of property.

(a) Prior to disposition of any unclaimed property having an estimated value of fifty dollars (\$50.00) or more, the City Manager shall send a written notice by certified mail to the party involved. The last known address of the owner shall be the last agency holding the property. The notice shall include a description of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the City Manager with a written claim for the return of the property within sixty (60) days of the date of the notice, the property shall become the sole property of the City and any claim of the owner to such property shall be deemed forfeited.

(b) Prior to disposition of any unclaimed property having an estimated value of less than fifty dollars (\$50.00), or having no last known address of the owner, the City Manager shall cause a notice to be published in a newspaper of general circulation in the City. The notice shall include a description of the property, the owner of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the City Manager with a written claim for the return of the property within sixty (60) days of the date of the publication of the notice, the property shall become the sole property of the City and any claim of the owner to such property shall be deemed forfeited.

(c) If the City Manager receives no written claim within the above sixty-day claim period, the property shall become the sole property of the City and any claim of the owner to such property shall be deemed forfeited.

(d) If the City Manager receives a written claim within the sixty-day claim period, the City Manager shall evaluate the claim and give written notice to the claimant within ninety (90) days thereof that the claim has been accepted or denied in whole or in part. The City Manager may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.

(e) In the event that there is more than one (1) claimant for the same property, the City Manager may, in his or her sole discretion, resolve said claims or may resolve such claims by depositing the disputed property with the registry of the District Court in an interpleader action.

(f) In the event that all claims filed are denied, the property shall become the sole property of the City and any claim of the owner of such property shall be deemed forfeited.

(g) Any legal action filed challenging a decision of the City Manager shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the City Manager pursuant to the order of the Court having jurisdiction over such claim.

(h) The City Manager is authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this Article, including compliance requirements for other municipal officers and employees in the identification and disposition of such property. (Prior code 13.28.030)

**Sec. 1-8-40. Sale of abandoned property.**

(a) The City Manager shall direct the sale of unclaimed personal property in such a fashion as will, in his or her opinion, yield the greatest income to the City. The sale shall be conducted as nearly as practical in the same fashion as the State deals with unclaimed property in Section 38-13-115, C.R.S.

(b) If the City Manager determines after investigation that any property delivered under this Article has insubstantial commercial value, the City Manager may destroy or otherwise dispose of the property at any time. No action or proceeding may be made against the City or any officer or against the holder for or on account of any action taken by the City Manager pursuant to this Article. (Prior code 13.28.040)