

## CHAPTER 7

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## ARTICLE I

### Administration and Abatement of Nuisances

#### Sec. 7-1-10. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

*Action to abate a public nuisance* means any action authorized by this Chapter to restrain, remove, terminate, prevent, abate or perpetually enjoin a public nuisance.

*Brush* means voluntary growth of bushes and such as are growing out of place at the location where growing, and shall include all cuttings from trees and bushes; and also high and rank shrubbery growth which may conceal filthy deposits.

*Building* means any house, office building, store, warehouse or structure of any kind, whether or not such building is permanently affixed to the ground upon which it is situated, and includes any trailer, semi-trailer, trailer coach, mobile home or other vehicle designed or used for occupancy by persons for any purposes.

*Inoperable vehicle* means any automobile, truck, tractor, motorcycle or self-propelled vehicle which is in a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed. The existence of any of the following conditions shall raise the presumption that a vehicle is inoperable:

- a. Absence of an effective registration plate upon such vehicle.
- b. Placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports.
- c. Absence of one (1) or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.

*Littering* means the scattering or dropping of rubbish, trash or other matter, organic or mineral.

*Refuse* means those materials defined in Section 6-7-10 of this Code.

*Rubbish* means those materials defined in Section 6-7-10 of this Code.

*Trash* means any worn out, broken up or used refuse, rubbish, toppings, twigs, leaves of trees or worthless matter or material.

*Weeds* means any undesired, uncultivated plants, especially those growing in profusion so as to crowd out desired crops or to disfigure lawns or gardens; any unsightly, useless, troublesome or injurious herbaceous growing plant; any volunteer bushes growing out of place; and any high and rank shrubbery growth which exhales unpleasant and noxious odors and may conceal filthy deposits; but shall not include sagebrush.

*Xeriscaping* is a type of landscaping which emphasizes the conservation of water and the use of drought-resistant native plants. (Prior code 6.04.010, 6.08.010, 13.24.010; Ord. 4 §1, 2005)

**Sec. 7-1-20. Policy.**

It is the policy of the City pursuant to Section 31-15-401(c), C.R.S., that every public nuisance shall be restrained, prevented, abated and perpetually enjoined. It is the duty of the City Attorney to bring and maintain an action, pursuant to the provisions of this Article, to restrain, prevent, abate and perpetually enjoin any such public nuisance. Nothing contained in this Article shall be construed as an amendment or repeal of any of the criminal laws of this State, but the provisions of this Article, insofar as they relate to those laws, shall be considered a cumulative right of the people in the enforcement of such laws. (Prior code 13.24.020)

**Sec. 7-1-30. Common law nuisances.**

Any nuisance which has been declared to be such by state courts or statutes or known as such at common law shall constitute a nuisance in the City, and any person causing or permitting any such nuisance shall be in violation of this Article. (Ord. 4 §1, 2005)

**Sec. 7-1-40. Author of nuisances.**

Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the owner, tenant or his or her agent, and all other persons having control of the property on which such nuisance exists, shall be deemed to be authors thereof and shall be jointly and equally liable and responsible. Where any such nuisance arises from the unusual or unnecessary use of such property or from the business thereon conducted, the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors. (Prior code 13.24.040; Ord. 4 §1, 2005)

**Sec. 7-1-50. Prohibition of nuisances.**

No person, being the owner, agent or occupant of, or having under his or her control, any building, lot, premises or unimproved real estate within the limits of the City, shall maintain or allow any nuisance to be or remain therein. (Ord. 4 §1, 2005)

**Sec. 7-1-60. Ascertaining nuisances.**

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things shall, upon investigation, be considered by the City Manager dangerous to the health of any of the inhabitants of the City, the same shall be considered a nuisance and shall be abated. (Ord. 4 §1, 2005)

**Sec. 7-1-70. Constitution of separate offense.**

In the case of any nuisance in or upon any street, alley or other public or private grounds, the author thereof shall be guilty of a separate offense for every period of forty-eight (48) hours' continuance thereof after notice has been given to abate the same. (Ord. 4 §1, 2005)

**Sec. 7-1-80. Filing complaint.**

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any person or police officer against any person who violates any provision of this Chapter. (Ord. 4 §1, 2005)

**Sec. 7-1-90. Abatement of nuisance.**

(a) In all cases where a nuisance shall be found in any building or upon any grounds or other premises within the jurisdiction of the City, twenty-four (24) hours' notice shall be given, in writing, signed by the City Manager, to the owner of said premises or the occupant or person in possession, charge or control of such building or other premises where he or she is known and can be found, to abate such nuisance and comply with the requirements of this Chapter. However, in the case where accumulated refuse has been deemed to be the nuisance, the City Manager shall require the removal of such accumulated refuse within thirty (30) days of such notice.

(b) Should any such nuisance, within or upon any public or private premises or as aforesaid, not be abated forthwith after the notice herein provided shall be given, the City Manager may declare the same to be a nuisance and order the Chief of Police to abate the same, which order shall be executed without delay, and the Chief of Police shall have the authority to call for the necessary assistance therefor.

(c) In case of any such nuisance in or upon any street, avenue, alley, sidewalk, highway or public grounds in the City, the Chief of Police or Public Works Superintendent may abate the same forthwith without such notice being given.

(d) Any officer who shall be duly authorized to abate any nuisance specified in this Article shall have the authority to engage the necessary assistance and incur the necessary expense therefor.

(e) The expense incurred by the City in abating any nuisance may be recovered from the author thereof as set forth in this Chapter. (Ord. 4 §1, 2005)

**Sec. 7-1-100. Right of entry.**

The City Manager, Chief of Police or any other authorized person may enter upon or into any lot, house or other building or premises, with the proper respect of the occupant's constitutional rights, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action of liability on account thereof. (Ord. 4 §1, 2005)

**Sec. 7-1-110. Report of costs.**

Upon the completion of any work by the City contemplated by this Chapter, the Public Works Superintendent shall report, in writing, to the City Manager, which report shall make a clear statement of the work done by the City and the expense incurred in so doing, so that the City Manager may determine the cost of such work. The Public Works Superintendent shall make a separate report for each lot or parcel of land. (Ord. 4 §1, 2005)

**Sec. 7-1-120. Assessment of property.**

After considering the report of the Public Works Superintendent, the City Manager shall determine and assess the whole cost for the abatement thereof, including five percent (5%) for the inspection and other incidental costs in connection therewith, upon the lots and tracts of land from which the nuisance was abated. (Ord. 4 §1, 2005)

**Sec. 7-1-130. Notice of assessment.**

The City Clerk, as soon as may be after such assessment is made, shall send by certified mail, return receipt requested, addressed to the owner of such lots or tracts of land at the reputed post office address, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner and the amount of the assessment. (Ord. 4 §1, 2005)

**Sec. 7-1-140. Payment of assessment.**

(a) It shall be the duty of the owner to pay such assessment or object thereto, in writing, within thirty (30) days after the receipt of such notice, and in case of his or her failure to do so, he or she shall be liable personally for the amount of the assessment. The same shall be a lien upon the respective lot or parcel of land from the time of such assessment, and the City shall have all remedies for collection thereof provided by state statutes, for the purpose of having the same placed upon the tax list and collected in the same manner as taxes are now collected. The assessment shall be a lien against each lot or tract of land until it is paid and shall have priority over all other liens except general taxes and prior special assessments.

(b) The amount of such assessment may be paid to the City Clerk at any time before the tax list is placed in the hands of the County Treasurer, but thereafter only to the County Treasurer. (Ord. 4 §1, 2005)

**Sec. 7-1-150. Objection to assessment; hearing.**

In the event any owner desires to object to said assessment, he or she shall, within thirty (30) days after the receipt of said notice, file a written objection thereto with the City Clerk, who shall thereupon designate the next regular meeting of the City Council as the date when said objector may appear and have a hearing before the City Manager and City Council. (Ord. 4 §1, 2005)

**Sec. 7-1-160. Certified assessment.**

In case the owner shall fail to pay such assessment or object thereto within the required time as provided above, then it shall be the duty of the City Clerk to certify the amount of the assessment to the proper county officers, who shall collect the assessment as provided for by state law for the collection of delinquent general taxes. (Ord. 4 §1, 2005)

**Sec. 7-1-170. Alternate action for abatement.**

In lieu of the methods described above, the City may take the following action to abate a nuisance:

- (1) An action to abate a public nuisance shall be brought in Municipal Court.
- (2) Except as otherwise may be provided in this Article, the practice and procedure in an action to abate a public nuisance shall be governed by the Colorado Rules of Civil Procedure.
- (3) An action to abate a public nuisance may be brought by the City Attorney in the name of the State of Colorado and the City of Rifle.
- (4) An action to abate a public nuisance, and any action in which a temporary restraining order, temporary writ of injunction or preliminary injunction is requested, shall be commenced by the filing

of a complaint, which shall be verified or supported by affidavit. A summons shall be issued and served as in civil cases. (Prior code 13.24.050; Ord. 4 §1, 2005)

**Sec. 7-1-180. Temporary restraining order.**

(a) If the existence of a public nuisance is shown in such action to the satisfaction of the Municipal Court, either by verified complaint or affidavit, the Municipal Court may issue a temporary restraining order to abate and prevent the continuance or reoccurrence of the nuisance. Such temporary restraining order may direct the Chief of Police or any police officer to seize and close the public nuisance and to keep the same effectually closed against its use for any purpose, until further order of the Court. Within ten (10) days following the filing of a motion of any person adversely affected by a temporary restraining order, the Court shall conduct a hearing and determine whether the temporary restraining order shall be continued pending final determination of the action.

(b) The Court may, as part of a preliminary injunction, direct the Chief of Police or any police officer to seize and close such public nuisance and to keep the same effectually closed against its use for any purpose, until further order of the Court. While the preliminary injunction remains in effect, the building or place seized and closed shall be subject to the orders of the Court. Preliminary injunctions may issue as provided by the Colorado Rules of Civil Procedure. No bond or security shall be required of the City or the State in any action to abate a public nuisance. (Prior code 13.24.060; Ord. 4 §1, 2005)

**Sec. 7-1-190. Judgment; relief.**

(a) The judgment in an action to abate a public nuisance may include a permanent injunction to restrain, abate and prevent the continuance or reoccurrence of the nuisance. The Municipal Court may grant declaratory relief, mandatory orders or any other relief deemed necessary to accomplish the purposes of the injunction and enforce the same, and the Court may retain jurisdiction of the case for the purpose of enforcing its order.

(b) The judgment in an action to abate a public nuisance may include an order directing the Chief of Police or any police officer to seize and close the public nuisance, and to keep the same effectually closed until further order of the Court, not to exceed one (1) year.

(c) The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to other injunctive relief, an order requiring the removal, correction or other abatement of a public nuisance, in whole or in part by the owner or operator of the public nuisance.

(d) The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to any other relief authorized by the provisions of this Article, the imposition of a fine of not more than one thousand dollars (\$1,000.00), conditioned upon failure or refusal of compliance with the orders of the Court within any time limits therein fixed. (Prior code 13.24.070)

**Sec. 7-1-200. Redelivery of seized premises.**

If the owner or operator of a building or place seized and closed as a public nuisance has not been guilty of any contempt of Municipal Court in the proceedings, and demonstrates by evidence satisfactory to the Court that the public nuisance has been abated and will not recur, the Court may order the premises delivered to the owner or operator. As a condition of such order, the Court may require the posting of

bond, in an amount fixed by the order by the Court, for the faithful performance of the obligation of the owner or operator thereunder to prevent recurrence of or continuance of the public nuisance. (Prior code 13.24.080)

**Sec. 7-1-210. Violation of injunction.**

Any violation or disobedience of any injunction or order issued by the Municipal Court in an action to abate a public nuisance is a Class A municipal offense. (Prior code 13.24.090; Ord. 4 §1, 2005)

**Sec. 7-1-220. Fees; costs and fines; liens and collection.**

(a) For seizing and closing any building or premises as provided in this Article, or for performing other duties pursuant to the direction of the Municipal Court pursuant to the provisions of this Article, the City shall be entitled to a reasonable sum fixed by the Court, in addition to the actual costs incurred or expended.

(b) All fees and costs allowed by the provisions of this Section, the costs of a court action to abate any public nuisance and all fines levied by the Court in contempt proceedings incident to any action to abate a public nuisance shall be a first and prior lien upon any real property seized or closed under the provisions of this Article, and the same shall be enforceable and collectible by execution issued by order of the Court, from the property of any person liable therefor.

(c) Nothing in this Article shall be construed in such a manner as to destroy the validity of a bona fide lien upon real or personal property appearing of record prior to recording of court orders involving real estate as authorized under this Article.

(d) In addition to the remedies set forth in Subsections (a) through (c) above, the assessment, together with up to fifteen percent (15%) for inspection and other incidental costs in connection therewith, shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. Such assessment may be certified by the City Treasurer to the County Treasurer and collected and paid over in the same manner as provided by law for the collection of taxes. However, any such assessment shall not be more than twenty percent (20%) in any one (1) year. Any amount charged on the tax roll of the succeeding year and any unpaid balance so carried over shall bear interest at the rate established by the Commissioner of Banking pursuant to Section 39-21-110.5, C.R.S., until paid. (Prior code 13.24.100)

**Sec. 7-1-230. Cumulative remedies.**

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge, conviction or violation of this Chapter in the Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist. (Ord. 4 §1, 2005)

**Sec. 7-1-240. Concurrent remedies.**

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other

provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law. (Ord. 4 §1, 2005)

**Sec. 7-1-250. Violations and penalties.**

Any person who shall violate any of the provisions of this Chapter shall be subject to the provisions of Section 1-4-20 of this Code. (Ord. 4 §1, 2005)

**Sec. 7-1-260. Procedure for noncriminal offenses.**

(a) Notwithstanding the provisions of Rule 223(a) and (b) of the Colorado Municipal Court Rules of Procedure or any provision of law, the right of a jury trial shall not be available at a hearing where the cited person is charged with a noncriminal offense. In addition, no person charged with a noncriminal offense subject to this Section shall be afforded the right of court-appointed counsel.

(b) The Colorado Municipal Court Rules of Procedure shall apply to any hearing where the cited person is charged with a noncriminal offense, unless any of such rules are clearly inapplicable. The burden of proof shall be upon the City, and the Municipal Court shall dismiss charges against an alleged violator unless the City proves the liability of the alleged violator beyond a reasonable doubt.

(c) An appeal from final judgment on a noncriminal offense shall be made in accordance with Rule 237 of the Colorado Municipal Court Rules of Procedure.

(d) Except as otherwise provided in this Section, no person against whom a judgment has been entered for a noncriminal offense shall collaterally attack the validity of that judgment unless such attack is commenced within three (3) months after the date of entry of judgment. The only exceptions to said time limitations shall be:

(1) A case in which the Court entering judgment did not have jurisdiction over the subject matter of the alleged infraction;

(2) A case in which the Court entering judgment did not have jurisdiction over the person of the violator;

(3) Where the Court finds, by a preponderance of the evidence, that failure to seek relief within the applicable time period was caused by an adjudication of incompetence or by commitment of the violator to an institution for treatment as a mentally ill person; or

(4) Where the Court finds that the failure to seek relief within the applicable time period was a result of circumstances amounting to justifiable excuse or excusable neglect.

(e) At any time that a person is cited for the commission of any noncriminal offense, the citing officer shall give a notice to the person, which notice shall be in the form of a penalty assessment notice.

(f) One (1) copy of said notice shall be given to the violator by the citing officer.

(g) The time specified in said notice to appear shall be at least fourteen (14) days, but not more than forty-five (45) days after such citation, unless the person cited demands an earlier hearing.

(h) Whenever the alleged violator refuses to sign or accept the penalty assessment notice, tender of such notice by the citing officer to the alleged violator shall constitute service of a summons and complaint.

(i) In the event a person who has been cited for a noncriminal offense fails to pay the penalty assessment within the time period specified in the penalty assessment notice, he or she shall make an appearance and answer the complaint against him or her. If the alleged violator answers that he or she is liable, judgment shall be entered against him or her, and he or she shall be assessed the appropriate penalty and applicable court costs. If the alleged violator denies the allegations in the complaint, a final hearing on the complaint shall be held within the time period prescribed in Rule 248 of the Colorado Municipal Court Rules of Procedure. If the alleged violator fails to appear for a final hearing, judgment shall be entered against him or her, and he or she shall be assessed the appropriate penalty and applicable court costs.

(j) In the event a person who has been cited for a noncriminal offense fails to pay the penalty assessment within the time period specified in the penalty assessment notice and also fails to appear at the time and place specified in said notice, judgment shall be entered against him or her and he or she shall be assessed the appropriate penalty and court costs.

(k) If the alleged violator is cited for a noncriminal offense, he or she shall answer the complaint made against him or her in the manner provided in the Colorado Municipal Court Rules of Procedure. The maximum penalty which may be imposed shall not exceed the penalty set forth in the penalty assessment notice. (Ord. 10 §2, 2005)

**Sec. 7-1-270. Administrative citations.**

In addition to all other remedies provided in this Chapter, the City may also issue an administrative citation to the author of any nuisance pursuant to the process described in Section 16-1-170 of this Code. (Ord. 5 §5, 2009)

**ARTICLE II**

**Nuisances Enumerated**

**Sec. 7-2-10. Accumulation to constitute nuisances.**

Whenever there shall be in or upon any lot or piece of ground within the limits of the City any damaged merchandise, garbage, litter, trash, rubbish, wrecked car, inoperable cars or other wrecked vehicles or an accumulation of junk vehicles or junk of any type upon any private or public property, except in areas specifically zoned in Chapter 16 of this Code for said purposes or otherwise designated by the City for such purposes, the existence of any such material or items shall constitute a nuisance and shall be in violation of this Article. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-20. Streets, streams and water supply.**

No person shall throw or deposit, or cause or permit to be thrown or deposited, any offal composed of animal or vegetable substance or both, dead animal, excrement, mud or debris, garbage or other offensive

matter upon any street, avenue, alley, sidewalk or public or private grounds. No person shall throw or deposit or cause or permit to be thrown or deposited in the City anything specified in any foregoing part of this Section or any other substance that would tend to have a polluting effect into the water of any stream, ditch, pond, well, cistern, trough or other body of water, whether artificially or naturally created, or so near any such place as to be liable to pollute the water. (Prior code 13.24.030; Ord. 4 §1, 2005; Ord. 3 §2, 2009)

**Sec. 7-2-30. Stagnant water.**

The permitting of stagnant water on any lot or piece of ground within the City limits is hereby declared to be a nuisance, and every owner or occupant of a lot or piece of ground within the City is hereby required to drain or fill up said lot or piece of ground whenever the same is necessary so as to prevent stagnant water or other nuisances from accumulating thereon, and it is unlawful for any such owner or occupant to permit or maintain any such nuisance. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-40. Sewer inlet.**

No person shall, in the City, deposit in or throw into any sewer (sanitary or storm), sewer inlet or privy vault that shall have a sewer connection any article that might cause such sewer, sewer inlet or privy vault to become nauseous to others or injurious to public health. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-50. Nauseous liquids.**

No person shall discharge or permit to be discharged out of or from or permit to flow from any house or property any foul or nauseous liquid or substance of any kind into or upon any adjacent ground or lot or into any street, alley or public place. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-60. Stale matter.**

No person shall keep, collect or use, or cause to be kept, collected or used, in the City any stale, putrid or stinking fat or grease or other offensive or stale matter, other than normal weekly trash accumulation. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-70. Privy vaults.**

No person shall neglect or refuse to discontinue use of, clean out, disinfect and fill up all privy vaults, septic tanks, cesspools or other individual waste water disposal systems within twenty (20) days after notice from any City official. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-80. Trash containers.**

No person shall permit any garbage container to remain on a premises when it has become unclean or offensive, or is injurious to the public health. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-90. Accumulation of manure.**

No person shall permit the accumulation of manure in any stable, stall, corral, feed yard, yard or other building or area in which any animals are kept. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-100. Transporting garbage, manure.**

Every vehicle or trailer used to transport manure, garbage, swill or offal in any street in the City shall be fitted with a substantial tight box thereon so that no portion of such filth will be scattered or thrown into such street. (Ord. 4 §1, 2005)

**Sec. 7-2-110. Dumping on property.**

It is unlawful for any person to use any land, premises or property within the City for the dumping or disposal of any garbage, trash, litter, rubbish, offal, filth, excrement, discarded building materials or combustible materials of any kind without first having made application for and receiving a permit to do so. The application therefor shall be filed with the City Clerk and shall state the location of the land, premises or property, the manner in which the dumping or disposal is to be accomplished and the means and methods by which the applicant proposes to secure the same against the danger of disease, fire and other menaces to the public health and to provide for the suppression of rodents, mosquitoes and other insects. Upon such investigation and a finding that the proposed dumping will not cause any danger to the public health, the City Clerk shall issue such a permit upon the payment of a fee as set forth in Appendix A to this Code with the approval of the City Council. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-120. Interference with public property.**

It is unlawful for any person to obstruct, tend to obstruct, interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage, canal, basin or any public park without first obtaining the written permission of the City. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-130. Inoperable vehicles.**

It is unlawful for any person or agent, either as owner, lessee, tenant or occupant of any lot or land within the City, to park, store or deposit or permit to be parked, stored or deposited thereon an inoperable vehicle unless such vehicle is enclosed in a garage or other building. The provisions of this Section shall not apply to any person or agent with one (1) vehicle inoperable for a period of less than thirty (30) consecutive days, or to any person who is conducting a business enterprise in compliance with existing zoning regulations. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-140. Dangerous or vacant residential dwellings.**

(a) It is unlawful for any person or agent, either as owner, lessee, tenant or occupant of any lot or land within the City, to allow or maintain any of the following:

(1) Any building, fence, structure or land within the City, the condition of which presents a substantial danger or hazard to public health or safety, including any "dangerous building," as defined in the Uniform Code for the Abatement of Dangerous Buildings, as adopted by reference by the City; or

(2) Any dilapidated building of whatever kind which is unused by the owner or uninhabited because of deterioration or decay, which condition constitutes a fire hazard or subjects adjoining property to danger of damage by storm, soil erosion or rodent infestation, or which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter; or

(b) All broken windows in a vacant dwelling shall be replaced by the owner or agent within seventy-two (72) hours after notice is given by the Chief of Police. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-150. Continuation of nuisance.**

It is unlawful for any person or agent, either as owner, lessee, tenant or occupant of any lot or land within the City, to allow or maintain any building, land, premises, business, occupation, activity, operation or condition which, after being ordered abated, corrected or discontinued by lawful order of the City or any officer thereof, continues to be conducted or continues to exist in violation of any ordinance of this City or any regulation enacted pursuant to the authority of an ordinance of this City. (Prior code 13.24.030; Ord. 4 §1, 2005)

**Sec. 7-2-160. Maintenance of nuisances.**

It shall be unlawful to maintain any nuisances which are known to the common law of the land and the statutes of Colorado as nuisances when the same exist within the City limits or within one (1) mile thereof. (Prior code 13.24.030; Ord. 4 §1, 2005)

**ARTICLE III**

**Garbage and Refuse Collection**

**Sec. 7-3-10. Deposit restrictions.**

(a) It shall be unlawful for any person to:

(1) Dispose of refuse, garbage, rubbish or toxic refuse, to throw or deposit the same or to cause the same to be thrown or deposited upon any street, alley, gutter, park, vacant lot or backyard; or to store or keep the same otherwise than in cans or receptacles as required by this Article.

(2) Store, deposit or keep refuse, garbage, rubbish or toxic refuse in locations such that rats or other rodents can have access thereto or feed thereon.

(3) Deposit or leave any refuse, garbage, rubbish, toxic refuse or any abandoned object or substance in such a place or condition that it can be blown by the wind so as to be scattered or cause clouds of dust or particles.

(4) Throw or deposit, without permission or license, any refuse, garbage, rubbish or toxic refuse in any can, receptacle or container belonging to another.

(5) Knowingly dispose of any toxic refuse in any manner other than that provided by this Article or by federal or state regulations.

(6) Utilize City trash collection services without paying the charges imposed by this Article.

(7) Place his or her trash for collection with or in City-provided containers unless such person is paying the charges imposed by this Article.

(b) Unless authorized by City staff or the City Council or required due to emergency circumstances, it shall be unlawful for any person to use, tamper with, remove or otherwise disturb any City-provided container or its contents without permission from the person to whom the container was assigned. (Prior code 6.04.020; Ord. 4 §1, 2005)

**Sec. 7-3-20. Accumulation of refuse prohibited.**

Any accumulation of refuse or other material on any premises, improved or unimproved, in the City is prohibited and is hereby declared to be a nuisance. (Ord. 4 §1, 2005)

**Sec. 7-3-30. Responsibility for refuse on premises.**

It shall be the duty of every person, whether owner, lessee or renter of any vacant lot, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment, at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. (Ord. 4 §1, 2005)

**Sec. 7-3-40. Removal of refuse from business.**

Discarded refuse, including automobile parts, stoves, furniture and junkyard refuse, shall be removed periodically by the proprietor so that the premises are clean and orderly at all times. Silt and similar deposits from automobile wash racks shall be removed to the City dump by the establishment creating such deposit. Any accumulation of refuse that is highly explosive or flammable which might endanger life or property shall be removed to such places as approved by the Chief of Police or the Fire Chief. Such removal shall be handled by the establishments responsible therefor. (Ord. 4 §1, 2005)

**ARTICLE IV**

**Weeds and Brush**

**Sec. 7-4-10. Undesirable Plant Management Advisory Commission designated.**

The City Council is appointed to act as the Undesirable Plant Management Advisory Commission for the City and shall have the duties and responsibilities as provided by state statute. (Ord. 4 §1, 2005)

*Editor's Note: Section 35-5.5-101, C.R.S., establishes the requirements for undesirable plant management in the State.*

**Sec. 7-4-20. Prohibitions and affirmative defenses.**

(a) It shall be unlawful for the owner, occupant or lessee of any lot, block or parcel of land within the City, or any agent in charge of said property, to allow or permit any weeds, grasses or other herbaceous plants, except for cultivated ornamental shrubs, bushes, flowers, sagebrush and edible vegetables, to grow or remain when grown in excess of eight (8) inches above the ground upon such property, in the public right-of-way along the side of, in front of or in the rear of such property, or between the property line and the traveled portion of any street, roadway or alley.

(b) Affirmative defenses.

(1) If the property is zoned DR (Developing Resource) District, it shall be an affirmative defense that the weed growth occurs more than twenty (20) feet from all of the following: any developed area; any man-made structure or improvement (not including fences); any area that is required to be or is being kept weed-free; and any adjoining streets, sidewalks, alleys or other public rights-of-way. This affirmative defense shall not relieve the owner or person in charge of the property from the obligation to keep said plants, as described herein, cut within eight (8) inches above the ground in the public right-of-way along the side of, in front of or in the rear of such property, and between the property line and the traveled portion of any street, roadway or alley.

(2) It shall be an affirmative defense that the plant growth is part of a Xeriscaping plan for the property. (Prior code 6.08.020)

**Sec. 7-4-30. Removal of cut plants required.**

It shall be unlawful for the owner, occupant or lessee of any lot, block or parcel of land within the City, or any agent in charge of said property, to fail to remove from the premises any cut weeds, brush, grasses or other herbaceous plants within twenty-four (24) hours after cutting. Said offense shall be deemed a strict liability offense. (Prior code 6.08.030; Ord. 4 §1, 2005)

**Sec. 7-4-40. Entry upon private property.**

(a) The City Manager shall have the right to enter upon any premises or land, whether public or private, during reasonable business hours for the purpose of inspecting for the existence of weeds, when at least one (1) of the following circumstances has occurred:

- (1) The landowner or occupant has requested, or given permission for, an inspection.
- (2) A neighbor has reported a suspected weed infestation and has requested an inspection.
- (3) An authorized agent of the City Manager has made a visual observation from a public right-of-way or area and has reason to believe that a violation of this Article has occurred.

(b) No entry upon private premises shall be permitted pursuant to this Article unless the landowner or occupant has been notified, either orally or by certified mail, at least twenty-four (24) hours prior to the inspection.

(c) If the City has complied with the foregoing notice provision and the landowner or occupant nevertheless denies access to the authorized agent, the agent may seek an inspection warrant issued by the Municipal Court. The Court shall issue an inspection warrant upon presentation by the agent of an affidavit setting forth:

- (1) Information showing reasonable cause to believe that any provision of this Article is being or has been violated.
- (2) A statement or other evidence that the occupant or landowner has denied access to the agent.
- (3) A general description of the affected land or parcel. (Prior code 6.08.040; Ord. 4 §1, 2005)

**Sec. 7-4-50. Procedure upon violation.**

(a) When the City Manager finds the existence of a violation of this Article, the City Manager shall issue a written notice of violation to the landowner and to the occupant of the property if the landowner is not the occupant. This notice shall specify the nature of the violation and shall require the landowner or occupant to abate the violation within ten (10) days after the date of the notice.

(b) The notice shall be personally served upon the landowner or shall be mailed to the landowner by certified mail at the address on file with the County Assessor. If the landowner is not the occupant, the notice shall also be provided to the occupant by either:

- (1) Personal service;
- (2) Mailing by certified mail addressed to the occupant at the address of the property; or
- (3) By posting the notice in a conspicuous place by a main entrance to the premises.

(c) On or before the deadline set forth in the notice, the landowner or occupant shall:

(1) Comply with the terms of the notice;

(2) Acknowledge the terms of the notice, admit the violation and submit a weed abatement plan and schedule acceptable to the City Manager, identifying the manner in which the landowner or occupant will abate the weeds and comply with the terms of the notice. The landowner or occupant shall obtain the signature of the City Manager on the notice to indicate the City's approval of said plan and schedule; or

(3) Request a hearing before the Board of Adjustment to determine whether a violation has occurred. Such determination by the Board of Adjustment shall be binding and final. (Prior code 6.08.050; Ord. 4 §1, 2005)

**Sec. 7-4-60. Failure to comply with notice.**

(a) In the event the landowner or occupant fails to comply with the notice of violation, as issued by the City Manager or as modified by agreement or by the Board of Adjustment, the City Manager may direct the Public Works Department or any employee of the City to cut or otherwise remove any such weeds or plants which violated the terms of the notice, and to remove the same, all at the expense of the owner of the property.

(b) The City may assess the actual cost of such abatement actions for labor, equipment and materials, plus an additional charge of five percent (5%) for administration, inspection and other incidental costs in connection therewith, to the owner of the lot or tract of land from which the weeds or plants are removed. Such assessment shall be a lien upon the property. (Prior code 6.08.060; Ord. 4 §1, 2005)

**Sec. 7-4-70. Notice of assessment.**

The City Manager shall personally deliver or mail via certified mail a notice of assessment to the owner of such lot or tract of land, addressed to the owner at his or her last known address based upon the

records of the County Assessor. The notice of assessment shall include a description of the lots or parcels of land. (Prior code 6.08.070; Ord. 4 §1, 2005)

**Sec. 7-4-80. Collection of assessments.**

(a) The owner of the property identified in the notice of assessment shall be personally liable for the amount of the assessment and shall pay the same in full within thirty (30) days after the mailing or delivery of the notice. If the landowner fails to pay the same in full within thirty (30) days, an additional penalty shall be added to the amount of the assessment equal to ten percent (10%) of the actual costs of abatement.

(b) The assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

(c) If the amount remains unpaid, the City Treasurer may certify the amount of the assessment to the County Treasurer, to be placed upon the tax list for the current year and collected in the same manner as other taxes are collected, as provided by state statutes and this Code. All of the laws of the State concerning the assessment and collection of general property taxes, including the laws regarding the sale of property for taxes and redemption thereof, shall apply to and have full effect for the collection for any such assessments.

(d) The City shall be entitled to interest on all unpaid assessments, costs, penalties and fines under this Article at the rate of twelve percent (12%) per annum. (Prior code 6.08.080; Ord. 4 §1, 2005)

**Sec. 7-4-90. Violation; penalty.**

It shall be unlawful for any person to fail to comply with the terms of any notice issued pursuant to the provision of Section 7-4-50; to refuse to permit an inspection pursuant to the provisions of Section 7-4-40; or to fail to remove cut plants as provided by Section 7-4-30. Violation of any of the provisions of these Sections is a Class A municipal offense, and the person violation these Sections shall also be ordered to pay restitution to the City for any costs incurred by the City in abating the weeds pursuant to this Article. The City may seek reimbursement of its abatement costs through an order of restitution pursuant to this Section or through an assessment as described above, or both; provided, however, that the combined amount of restitution actually paid plus the amount of the assessment shall not exceed the City's actual costs of abatement, plus fifteen percent (15%). Nothing in this Section shall prohibit the City from collecting interest on all unpaid amounts at the rate of twelve percent (12%) per annum. Every day that a violation of this Article continues shall be construed as a separate violation. An offense under this Article shall be deemed civil in nature and shall not give rise to a right to trial by jury. (Prior code 6.08.090; Ord. 4 §1, 2005)

**Sec. 7-4-100. Remedies not exclusive.**

The fact that assessments have been made against property as provided in this Article for cutting and removing of weeds and plants, or a public nuisance has been declared, shall not prevent the owner, agent, occupant or lessee of such property from being subject to the sanctions referenced in Section 7-4-90. The remedies provided for in this Article shall be in addition to all other remedies authorized by this Code and state law. (Prior code 6.08.100)

**Sec. 7-4-110. Public nuisance.**

All weeds as defined in Section 7-1-10 of this Article and any and all premises, plants and things infested with or exposed to infestation are declared to be public nuisances which may be abated as provided by law. (Prior code 6.08.110)

**ARTICLE V**

**Trees**

**Sec. 7-5-10. Definitions.**

As used in this Article, the following terms shall have the meanings indicated:

*Private trees* means trees, shrubs, bushes and other wood-like vegetation located on private property, which may project or exist over or outside the property line.

*Public access trees* means trees, shrubs, bushes and other wood-like vegetation located in established parks, cemeteries, trail rights-of-way, street rights-of-way bordering City property, and other areas within the City's jurisdiction to which the public has access, such as a park or pedestrian way.

*Severely top or topping* means the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

*Street trees* means trees, shrubs, bushes and all other wood-like vegetation which are found on City street rights-of-way existing between private property and the nearest adjacent paved street. (Prior code 17.18.100; Ord. 4 §1, 2005)

**Sec. 7-5-20. Trees on public property.**

(a) It is a violation of this Article to remove, damage, injure, cut, prune, paint, deface or kill any public access tree except by, or with the written permission of, the City Manager.

(b) It is the responsibility of the property owner to maintain all street trees adjacent to the owner's property in accordance with guidelines developed by the Tree Board.

(c) It is unlawful to remove or severely top any street tree without prior approval of the Tree Board except, if any of the following conditions exist:

(1) The street tree is an undesirable tree species as defined by the Tree Board;

(2) The street tree is within the area near an intersection defined by Section 16-3-240(6) of this Code; or

(3) The street tree has first been determined by the City Manager as being dead, severely diseased, or hazardous to public safety.

Street trees that interfere with the safe and reliable provision of overhead utility service may be topped, pruned or removed with the permission of the City Manager.

(d) If a tree is removed pursuant to Subsection (c) above, the adjoining property owner is responsible for planting a new tree within one hundred eighty (180) days of removal, and the new tree shall meet the standards set forth in Subsection (e) below. This new tree shall be not less than one (1) inch in diameter measured two (2) feet above ground level. If it is not reasonably possible to meet all of the standards in Subsection (e), the property owner shall be relieved of this requirement.

(e) It is unlawful to plant a street tree without prior approval of the Tree Board unless it complies with all of the following standards:

(1) It is a "desirable tree" species as approved by the Tree Board;

(2) The location of the trunk is not within ten (10) feet measured horizontally from any overhead utility service;

(3) The location of the trunk is not within five (5) feet measured horizontally from any City water or sewer line or main. It is the responsibility of the owner to contact the City to determine the location of such lines and mains.

(4) The location of the trunk is not within the area near a street intersection as defined by Section 16-3-240(6) of this Code. There shall be no new trees planted within thirty (30) feet of any intersection.

(5) The location of the trunk is at least three (3) feet measured horizontally from the back of any City street curb or sidewalk located on City property.

(f) Pruning and clearance. Every owner of any tree on his or her property or responsible for the maintenance of a street tree which overhangs any street, right-of-way, alley, lane, corner or any other public area within the City shall prune the branches so that such branches shall not obstruct the vision of signage placed by the City or obstruct the view of any intersection as defined by Section 16-3-240(6) of this Code. There shall be a clear space of eight (8) feet above any sidewalk, and thirteen (13) feet above any street, alley or lane. Owners shall remove all dead, diseased or dangerous branches, or broken or decayed limbs which constitute a menace to the safety to the public, and shall bear the financial cost of removal.

(g) Protection of trees. During the construction or improvement of any structure, it shall be unlawful for any person to place material, machinery or soil deposits within three (3) feet of any tree on City property.

(h) Nothing in this Article shall prevent the City, at its sole discretion, from assuming, on a temporary basis, the responsibility for the maintenance of street trees where the City has also assumed the responsibility for the maintenance of other landscaping. (Prior code 17.18.400; Ord. 4 §1, 2005)

**Sec. 7-5-30. Trees on private property.**

The City shall have the right to cause the removal of any tree on private property within the City, when such trees constitute a hazard to life and property or harbor insects or diseases which are a potential threat to other trees within the City. The owner will be notified in writing of any such decision by the City Manager. Removal will be done by the owner at her or his expense within sixty (60) days after the notice is served. In the event there is failure to comply with the notice, the City shall have the authority to remove such trees and charge the costs of removal to the owners. (Prior code 17.18.500)

**Sec. 7-5-40. City rights and powers to enforce tree care and safety.**

(a) This Article outlines the City's ability to enforce tree safety and care concerning public/private overlap. The City Manager, in consultation with the Tree Board, shall have the power to promulgate and communicate rules, regulations and specifications for the trimming, removal, planting, pruning and protection of trees, shrubs, bushes and other wood-like vegetation.

(b) The City Manager shall have the power to determine if a safety concern or obstruction exists regarding street trees, public access trees or private trees and can prescribe actions necessary to abate the problem.

(c) The City Manager shall have the right to trim, remove, prune and protect any street tree or to require the owner or occupant of the property, or his or her agent, abutting on the right-of-way of any street, alley, sidewalk or other public place to trim, remove, prune or protect any private tree which may project or exist beyond the property line (including street trees adjacent to private property) of such owner, occupant or agent, onto or over public property in a manner which interferes with the safe use of the right-of-way, at the expense of said owner. If not paid within thirty (30) days, the amount shall be made a lien against said property until paid. If the property owner, occupant or agent refuses or neglects to trim, remove, prune or protect any such tree, shrub, bush or other wood-like vegetation within ten (10) days of a written notice from the City Manager to do so, the City Manager may do or cause to be done the necessary work incident thereto, and the expenses thereof shall be collected from the owner of such property. If not collected within thirty (30) days, the amount shall be made a lien against said property until paid. (Prior code 17.18.600; Ord. 4 §1, 2005)

**Sec. 7-5-50. Adoption of tree and shrubbery regulations.**

The City Council may, from time to time, adopt tree and shrubbery regulations by appropriate resolution. Any regulation so adopted shall be for the exclusive purpose of providing for the care of trees and shrubs in the City and shall be deemed as mandatory for any removal, destruction, trimming or pruning of any tree, shrub or hedge in the City. (Prior code 17.18.700)

**Sec. 7-5-60. Penalty.**

Any violation of the provisions of this Article is classified as a Class B municipal offense. (Prior code 17.18.800)

## ARTICLE VI

### Animals

#### *Division 1 General Provisions*

#### **Sec. 7-6-10. Definitions.**

For the purposes of this Article, the following definitions shall apply:

*Abandon* includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

*Animal* means any warm-blooded mammal other than *Homo sapiens*, both domesticated and undomesticated, and includes any reptile. Animal includes both the male and female, whether or not neutered or sterilized.

*Cat* means any common domestic animal of the feline species, regardless of sex.

*Certificate of vaccination* means a document containing the information required in Section 7-6-130, properly completed and executed by a veterinarian, which shall be furnished to the owner or keeper of any vaccinated domesticated animal.

*Dog* means any animal of the canine species, regardless of sex.

*Dog, female* means a dog of the female gender on which no surgery of the genital organs has been performed.

*Dog, male* means a dog of the masculine gender, either castrated or not castrated.

*Dog, spayed female* means a female dog on which an ovariectomy or ovariohysterectomy has been performed by a licensed veterinarian.

*Domesticated animal* means a dog, cat or Vietnamese pot-bellied pig.

*Exotic pet* means any species of animal not commonly kept as pets, including but not limited to snakes, spiders, ferrets and skunks.

*Identification* means either a metal tag affixed to a collar, tattoo or other means of identifying the animal.

*Kennel* means a person, entity or operation which is, by law, required to be licensed under the laws of the State, County or City, for the purpose of housing, keeping or caring for domesticated animals.

*License* means a document containing the information required in Section 7-6-130, properly completed and executed by the City Clerk, which shall be valid only when the subject animal wears the accompanying license tag, tattoo or other approved permanent marking.

*Mistreatment* includes every act or omission which causes, or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering.

*Neglect* includes failure to provide food, water, protection from the elements, opportunity for exercise or other care normal, usual and proper for an animal's health and well-being.

*Owner* means a person who owns, possesses, controls, maintains, keeps or harbors an animal, or knowingly permits an animal to remain for seven (7) consecutive days, on or about property or premises owned, controlled or occupied by him or her.

*Pit bull* means any dog that is an American Pit Bull Terrier, American Staffordshire Terrier or Staffordshire Bull Terrier, any dog displaying the majority of physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.

*Rabies* means a communicable disease of both wild and domestic animals, especially dogs, transmittable to humans, as defined by the United States Department of Agriculture.

*Running at large* pertains to a domesticated dog off the premises of the owner and not on a lead or leash no longer than ten (10) feet and under the physical control of a person competent to restrain the dog. A domesticated dog within or upon any automobile or other vehicle shall not be deemed *running at large*.

*Vaccination* means the vaccination or inoculation of a domesticated animal with an anti-rabies vaccine approved by the Colorado Department of Public Health and Environment and administered by a veterinarian licensed by the State.

*Vicious animal* means any animal, whether or not domesticated, that bites, attacks or attempts to bite or attack in a vicious or terrorizing manner humans or other animals; provided, however, that an animal shall not be deemed vicious by reason of having bitten or attacked the following:

- a. Any person engaged in an unlawful entry into or upon the owner's property where such animal is kept.
- b. Any person engaged in an unlawful entry into or upon the owner's automobile or other vehicle where the animal is confined.
- c. Any person engaged in attacking, assaulting or molesting another.
- d. Any person who intentionally provokes such animal who bites or attacks any person or another animal.
- e. Any animal entering the owner's property where such owner's animal is kept, provided that the entry is unauthorized. (Prior code 9.02.010, 9.04.010; Ord. 4 §1, 2005)

**Sec. 7-6-20. Penalties.**

(a) Except as otherwise provided for in this Section, any person who violates any provision of this Article shall be deemed to have committed a noncriminal offense and shall be subject to imposition of a penalty assessment pursuant to the procedure set forth at Section 7-1-260. Every person who is convicted of, who admits liability for or against whom a judgment is entered for a noncriminal animal control infraction shall be penalized by imposition of a fine in an amount not less than five dollars (\$5.00) and not greater than one hundred dollars (\$100.00), unless otherwise specified. The Municipal Judge shall promulgate a schedule of penalties for all noncriminal animal control infractions contained in this Article. Such schedule shall be prominently posted in the office of the Court Clerk.

(b) Any person who violates any of the following provisions of this Article shall be guilty of a Class A municipal offense:

- (1) Section 7-6-150, running at large prohibited, third and subsequent offenses only.
- (2) Section 7-6-170, damage to property.
- (3) Section 7-6-220, vicious animals unlawful.
- (4) Section 7-6-410, cruelty to and neglect of animals prohibited.

(c) The provisions of Section 7-1-260 shall not apply to violations specified in Subsection (b) above, nor shall they apply when it appears that the alleged violator has, in the course of the same transaction or occurrence, violated one (1) of the provisions referred to in Subsection (a) above and has also violated one (1) or more of the provisions contained in Subsection (b), and the citing officer charges such violator with two (2) or more violations, any one (1) of which is not referred to in Subsection (a). (Prior code 9.01.020; Ord. 4 §1, 2005; Ord. 10 §3, 2005)

**Sec. 7-6-30. Strict liability.**

For the purpose of prosecution for violations of this Article, it shall not be necessary in order to obtain a conviction or judgment to prove notice or knowledge on the part of the owner or keeper of a dog or other animal in question if such dog or other animal was violating any of the provisions of this Article at the time and place charged, unless otherwise provided in this Article. It is the purpose and intent of this Article to impose strict liability upon the owner or keeper of any dog or other animal for the actions, conduct and condition of such dog or other animal. (Prior code 9.01.040; Ord. 10 §4, 2005)

*Division 2  
Dogs and Cats*

**Sec. 7-6-110. Periodic vaccination and licensing required.**

(a) No domesticated animal over the age of six (6) months shall be kept, harbored or maintained within the City unless the animal's owner has had the domesticated animal inoculated by a licensed veterinarian, if available, obtained a vaccination certificate from the veterinarian, and also obtained from the City Clerk a license for each dog. Such vaccination shall be performed before January 1, and any such vaccination shall be effective for the period of time certified by the veterinarian. Licenses shall be

obtained annually from the City Clerk or other authorized vendor for the period of January 1 through December 31 of each year. Any person who acquires or harbors any domesticated animal shall, within fourteen (14) days after acquiring the animal, have it licensed and inoculated, if required.

(b) The provisions of this Section shall not be intended to apply to domesticated animals whose owners are nonresidents temporarily within the City, to domesticated animals brought into the City for the purpose of participating in any animal show, field trial or race, nor to "seeing-eye" dogs properly trained to assist blind persons, when such dogs are actually being used by blind persons for the purposes of aiding them in going from place to place. For purposes of this Section, a person shall be deemed a resident if he or she remains in the City for a period of thirty-two (32) days.

(c) All domesticated animals which are brought into the City by a resident shall be in compliance with the laws, rules and regulations of the State regarding the handling of the animals, and shall have been vaccinated not less than thirty (30) days nor more than twelve (12) months prior to importation. A metal tag denoting vaccination shall be firmly affixed to the collar or harness of the dog, and shall be evidence of compliance with this Section. If the imported domesticated animal has not had such vaccination when imported, such animal shall be vaccinated in accordance with the provisions of this Article within fourteen (14) days of its importation, subject to the exceptions provided for above.

(d) All imported dogs shall also be licensed in accordance with the provisions of this Article within fourteen (14) days of importation, subject to the exceptions provided for above.

(e) It is unlawful for any person to knowingly keep any domesticated animal within the City which has not been vaccinated against rabies and licensed, if required as provided herein.

(f) A violation of this Section is a Class B municipal offense. Penalties for this violation are set forth in Section 10-1-40 of this Code. (Prior code 9.02.020; Ord. 4 §1, 2005; Ord. 7 §4, 2010)

**Sec. 7-6-120. Certificates of vaccination and rabies tags.**

(a) Inoculation of domesticated animals under this Article may be performed by any veterinarian licensed by the State. The veterinarian shall issue a certificate of vaccination to the owner, which shall contain the following information:

- (1) The name, address and telephone number of the owner of the domesticated animal;
- (2) The date of vaccination;
- (3) The type of rabies vaccine used;
- (4) The year and number of the rabies tag;
- (5) The predominate breed, age, color, size and sex of the vaccinated domesticated animal;
- (6) The name, license number and address of the veterinarian performing the vaccination; and
- (7) Sex alterations, if any.

(b) It is unlawful for any person who owns a vaccinated domesticated animal to knowingly fail or refuse to exhibit his or her copy of the certificate of vaccination upon demand to any person charged with the enforcement of this Article.

(c) A rabies tag shall be issued by the veterinarian to the owner of any vaccinated dog. The rabies tag shall be made of a durable material, shall be suitable for attaching to a dog collar or harness, and shall state the year of issuance, the name, address, phone number of the veterinarian administering the vaccine and the rabies tag number. The tag shall be attached to the collar or harness of the vaccinated dog by the owner immediately upon issuance, and such tag must be worn by the dog for which it was issued at all times.

(d) It shall be unlawful for any person who owns a vaccinated dog to knowingly fail or refuse to attach a rabies tag as herein required.

(e) No vaccination shall be required of a domesticated animal until such time as a viable rabies vaccine becomes available for the species.

(f) A violation of this Section is a Class C municipal offense. Penalties for this violation are set forth in 10-1-40 of this Code. (Prior code 9.02.030; Ord. 7 §5, 2010)

**Sec. 7-6-130. Dog licenses and tags.**

(a) The City Clerk shall issue an animal license upon presentation of the certificate of vaccination and payment of the required fee.

(b) The annual license fee for dogs shall be as set forth in Appendix A to this Code.

(c) The license shall contain the following information:

- (1) The name and address of the owner or harbinger of the licensed animal;
- (2) The date of inoculation and date of license;
- (3) The year and series number of the animal tag; and
- (4) The breed, age, color and sex of the inoculated animal.

(d) The license tag issued with each dog license shall be made of a durable material suitable to be attached to the collar or harness.

(e) Every owner or harbinger of a animal for which a license tag has been issued shall attach the tag evidencing the licensing to the collar or harness of the inoculated and licensed animal, and such collar or harness shall be worn by the animal at all times.

(f) The license shall be retained by the owner or harbinger of the inoculated and licensed animal for inspection by any person charged with the enforcement of this Article.

(g) It is unlawful for any person to own or harbor a dog within the City that is not licensed in compliance with this Section. It is unlawful for any person who owns or harbors a dog in the City to

knowingly fail or refuse to exhibit his or her copy of a license upon request by a law enforcement officer, or to knowingly fail or refuse to attach the license tag to the collar or harness of the dog.

(h) Licenses shall not be transferable. It is unlawful for any person to knowingly possess a license or to affix a license tag to any dog other than the specific animal for which the license was issued.

(i) A violation of this Section is a Class C municipal offense. Penalties for this violation are set forth in Section 10-1-40 of this Code. (Prior code 9.02.040; Ord. 4 §1, 2005; Ord. 7 §6, 2010)

**Sec. 7-6-140. Kennels excepted.**

Domesticated animals kept or maintained by a licensed kennel or veterinarian need not be licensed pursuant to the provisions of this Article when they are within the confines of the kennel premises. (Prior code 9.02.050)

**Sec. 7-6-150. Running at large.**

(a) It is unlawful for any person who is the owner of any dog to have, keep or harbor a dog which runs at large. It shall be an affirmative defense to a prosecution for the violation of this Section that the dog was actually working livestock, locating or retrieving wild game in season for a licensed hunter, acting as a guide dog for a developmentally disabled person, assisting law enforcement officers or being trained for any one (1) of these pursuits.

(b) Every person found liable for a violation of this Section shall be punished upon a first complaint by a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00). Every person found liable for a violation of this Section shall be punished upon a second judgment within one (1) year by a fine of not less than fifty dollars (\$50.00), nor more than one thousand dollars (\$1,000.00). Every person convicted of a violation of this Section shall be punished upon a third or subsequent judgment or complaint within one (1) year by a fine of not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000.00), by imprisonment not to exceed one (1) year, or by both such fine and imprisonment. The minimum fines provided for the first, second, third or subsequent violations are mandatory, and the Court shall have no discretion to suspend the fine therefor.

(c) Any dog found to be running at large more than three (3) times in one year may be impounded and destroyed as provided in this Article.

(d) It is unlawful for the owner or any person in charge of any livestock knowingly to cause or permit such livestock to run at large within the City limits. Any person found guilty of violating the provision of this Section shall be punished by a fine of not more than two hundred fifty dollars (\$250.00), or by imprisonment for not more than six (6) months. (Prior code 9.02.060; Ord. 4 §1, 2005)

**Sec. 7-6-160. Leaving animal unattended.**

(a) It is unlawful for the owner or keeper of any animal to knowingly tie or otherwise restrain his or her animal so that the animal may enter in or upon a public street, alley, right-of-way or other public property, except when the animal is being walked on a leash.

(b) A violation of this Section is a Class C municipal offense. Penalties for this violation are set forth in Section 10-1-40 of this Code. (Prior code 9.02.070; Ord. 7 §7, 2010)

**Sec. 7-6-170. Damage to property.**

(a) It is unlawful to own, keep, harbor or possess any animal, whether or not running at large, which destroys, damages or injures any shrubbery, plants, flowers, grass, lawns, fences or anything whatsoever upon any public or private property not belonging to the owner.

(b) A violation of this Section is a Class B municipal offense. Penalties for this violation are set forth in Section 10-1-40 of this Code. (Prior code 9.02.080; Ord. 7 §8, 2010)

**Sec. 7-6-180. Impounding stray dogs.**

(a) It shall be the duty of the Chief of Police to apprehend any stray dog or any dog found running at large contrary to the provisions of Section 7-6-150 hereof or not duly vaccinated or licensed as provided herein, and to impound such dog in the City animal control facility or other suitable place determined by the Chief of Police.

(b) Upon apprehending any such dog, the Chief of Police shall make a complete registry of the impounded dog, including the following: the date, time, place and circumstances of the apprehension; the apparent breed, sex and color of the dog; the condition of the dog; and whether such dog is licensed. If the dog is licensed, the name and address of the owner and the date and number of the dog tag shall be entered in such registry, which shall be maintained at the office of the Chief of Police.

(c) When such dog is impounded, the City Manager shall be notified as soon as possible of that action. A report of the impoundment shall be made and kept available at the Police Department for public information. If the owner of an impounded dog is traceable through identification by license or otherwise, an attempt shall be made to contact the owner within twenty-four (24) hours of impoundment. If an impounded dog is not claimed by the end of the fifth day after impoundment and the owner has not been found, the dog shall be put up for adoption unless other arrangements have been made with the Chief of Police. As appropriate, the Chief of Police may list the dog as being available for adoption with the community access cable television channel, cooperating radio stations or newspapers.

(d) No dog shall be released from the place of impoundment to the owner until the owner has paid all charges as set out herein for impounding and maintenance of said dog, and until the dog has been licensed and vaccinated against rabies in accordance with this Article as directed by the Chief of Police. No female domesticated dog in heat shall be released until the owner demonstrates to the satisfaction of the Chief of Police that he or she has facilities for caring for and confining said dog.

(e) The charges and fees for impounding and keeping any dog shall be as set forth in Appendix A to this Code. These charges and costs shall be in addition to any penalties imposed on the dog's owner pursuant to this Article.

(f) If, within six (6) days of impoundment under this Section, an dog is not claimed or the charges have not been paid thereon, or the owner otherwise has not complied with the requirements of this Section regarding redemption of the dog and the dog has not been adopted, the Chief of Police may have such dog destroyed, except as otherwise provided herein. (Prior code 9.02.090; Ord. 4 §1, 2005)

**Sec. 7-6-190. Quarantine of animals.**

(a) An animal which is known to have bitten or injured any person so as to cause an abrasion of the skin, an animal which, in the opinion of the Chief of Police, any police officer or a licensed veterinarian, appears to be affected or infected with rabies, or a animal which is known to have been bitten by or exposed to a rabid animal, shall be impounded by the Chief of Police or any police officer, and closely confined by the City in accordance with the directions of the Chief of Police, at the expense of the animal owner.

(b) If said animal is determined by a veterinarian to be suffering from rabies, it shall be destroyed immediately. If such animal is determined not diseased, it may be redeemed by its owner in accordance with the provisions for redemption set out in Section 7-6-180(d) above. If the owner of said animal is not determined or located, or if the animal is not claimed within the aforesaid fourteen-day period, the Chief of Police may order such animal destroyed. If said animal dies while confined or impounded as herein provided, notice thereof shall be given to the owner, if known, and the proper medical tests shall be conducted at the expense of the owner to determine whether the animal was suffering from rabies at the date of death.

(c) It is unlawful for an owner knowing or reasonably suspecting that his or her animal has rabies to allow such animal to be taken off his or her property or premises or beyond the limits of the City without the written permission of the Chief of Police. Every owner or other person, upon ascertaining that an animal is rabid, shall immediately notify the Chief of Police or any police officer, who shall either remove the animal to the City animal control facility or, if necessary for the protection of the public, immediately destroy the animal.

(d) A violation of this Section is a Class A municipal offense. Penalties for this violation are set forth in Section 10-1-40 of this Code. (Prior code 9.02.100; Ord. 4 §1, 2005; Ord. 7 §9, 2010)

**Sec. 7-6-200. Release of unclaimed animals.**

With respect to an animal which has been impounded or quarantined pursuant to the provisions of Sections 7-6-180 and 7-6-190 above and which has not been claimed, released or disposed of in accordance with said Sections, the Chief of Police, in lieu of having said animal destroyed, may release it to a qualified adoptive home under such conditions as he or she may deem appropriate to assure that the animal is vaccinated and neutered. The City Council shall by resolution establish adoption fees. (Prior code 9.02.110; Ord. 4 §1, 2005)

**Sec. 7-6-210. Destruction of dangerous animals.**

Where, in the reasonable discretion of the Chief of Police or any police officer, any animal is endangering the life or person of another or inflicting injury or death to another, said animal may be immediately destroyed. (Prior code 9.02.120)

**Sec. 7-6-220. Vicious animals unlawful.**

(a) It shall be unlawful for any person to own, keep, harbor or possess any vicious animal unless the animal is tethered or confined in a permanent enclosure on the owner's property so as to not interfere with any member of the public or any other animal not belonging to the owner. Any person who violates the

provisions of this Subsection (a) shall be subject to the municipal criminal offense penalties outlined in Section 7-6-20 of this Article.

(b) The Chief of Police, any police officer or any animal control officer is authorized to impound any animal, provided that such officer finds that probable cause exists to believe the animal is vicious as defined in Section 7-6-10 this Code.

(c) The Chief of Police, any police officer or any animal control officer may, in conjunction with a citation of violation under Subsection (a) above, command such person's attendance at a Court hearing concerning the disposal or destruction of the animal, to be held simultaneously with a trial scheduled to determine a violation under Subsection (a) above. If such person is found guilty of a violation under Subsection (a) above, the Court shall order the vicious animal destroyed.

(d) Upon issuance of a court order requiring disposal or destruction of the vicious animal, the Chief of Police, any police officer or any animal control officer shall require such violator to dispose of or destroy such vicious animal within twenty-four (24) hours of such order. The failure or refusal of such person to comply with the order shall constitute a separate violation of Subsection (a) above, and each subsequent failure or refusal to comply with such order shall be deemed a separate offense. Further, upon such failure or refusal, the Chief of Police, any police officer or any animal control officer shall impound and cause such a vicious animal to be humanely destroyed. The owner of such animal shall be responsible for and pay all costs of impoundment and destruction of the animal. (Prior code 9.02.130; Ord. 4 §1, 2005)

**Sec. 7-6-230. Muzzling and confinement.**

(a) Whenever it becomes necessary to safeguard the public from the dangers of rabies, the Mayor, if he or she deems it necessary, shall issue a proclamation ordering every person owning or keeping an animal to confine it securely on his or her property or premises unless such animal has a muzzle of sufficient strength to prevent it from biting any person. Any unmuzzled animal running at large during the time of the proclamation shall be seized and impounded, and if noticeably infected with rabies and displaying vicious propensities, shall be destroyed by or at the direction of the Chief of Police.

(b) An animal impounded during the effective date of such proclamation may be released to the owner as provided in Section 7-6-200 above. (Prior code 9.02.140; Ord. 4 §1, 2005)

**Sec. 7-6-240. Animal disturbances.**

(a) It shall be unlawful to keep, harbor or possess an animal which disturbs the peace and quiet of others by loud, frequent or habitual barking, yelping, howling, baying, yipping, crying, whining, mewing, crowing or any other loud noises so that the same may be heard beyond the premises where the animal is kept or harbored. However, the owner, possessor or harbinger shall first be notified of the disturbance of another, either by the person disturbed or by a peace officer.

(b) A violation of this Section is a Class B municipal offense. Penalties for this violation are set forth in Section 10-1-40 of this Code. (Prior code 9.02.150; Ord. 4 §1, 2005; Ord. 7 §10, 2010)

**Sec. 7-6-250. Liability.**

The City, any employee thereof or any other person authorized to enforce the provisions of this Article shall not be held responsible for any accident or subsequent disease that may occur to the animal, for the inadvertent adoption of any animal or the destruction of any animal if done pursuant to the provisions of this Article. (Prior code 9.02.160)

**Sec. 7-6-260. Removal of dog excrement.**

No person owning or keeping any dog shall fail to prevent such dog from defecating upon any property other than the premises of the owner, guardian or keeper, unless such feces is removed immediately and disposed of in a sanitary fashion. Failure to remove and dispose of such defecation is considered a Class C municipal offense. (Prior code 9.02.170)

*Division 3  
Other Animals*

**Sec. 7-6-310. Certain animals prohibited.**

(a) Except as provided in this Article, it is unlawful for any person to knowingly own, possess, keep or harbor within the limits of the City any livestock, cows or other cattle, horses, goats, pigs (except for domesticated Vietnamese pot-bellied pigs), hogs, sheep, rabbits, fowl (including but not limited to chickens, geese, ducks and turkeys), poisonous or venomous snakes, exotic pets or any wild or undomesticated animals. It is unlawful for any person to knowingly own, possess, keep or harbor within the City any animal species of wildlife prohibited as pets by the Colorado Division of Wildlife, or any animals prohibited as pets by Section 25-4-712, C.R.S.

(b) A violation of this Section pertaining to harboring unlawful domestic animals is a Class C municipal offense. A violation of this Section pertaining to harboring unlawful vicious animals is a Class A municipal offense. Penalties for these violations are set forth in Section 10-1-40 of this Code. (Prior code 9.03.010; Ord. 7 §11, 2010)

**Sec. 7-6-320. General exceptions.**

(a) This Article shall not apply to rodeos, circuses, livestock shows, horse shows or other similar events held within the City; licensed slaughterhouses or livestock sales operations; or the raising of certain animals for profit, if licensed pursuant to law.

(b) Any owner of an otherwise prohibited exotic pet may apply to the City Manager for permission to keep such pet upon his or her property. The City Manager may impose reasonable restrictions upon the keeping of said animal. Under no circumstances shall permission be granted for keeping any animal species of wildlife prohibited as pets by the Colorado Division of Wildlife, or any animals prohibited as pets by Section 25-4-712, C.R.S. (Prior code 9.03.020)

**Sec. 7-6-330. Exceptions for certain animals.**

(a) Rabbits may be kept in a single-family residence.

(b) Two (2) chickens or ducks may be kept per single-family residence.

(c) Livestock may be kept in any area of the City zoned as "Developing Resource" as a nonconforming use, subject to the provisions of Chapter 16 of this Code.

(d) One (1) horse per acre may be kept within the City limits in an area zoned other than "Developing Resource"; provided that the minimum site for the keeping of any horse shall be two (2) acres; and further provided that the keeping of any horses shall be considered as a conditional use. A conditional use permit following a public hearing must be obtained from the Planning Commission, in accordance with the procedures set forth elsewhere in this Code. In no event may a stallion over eighteen (18) months of age be kept within the City limits. (Prior code 9.03.030)

**Sec. 7-6-340. Confinement requirements.**

In all cases in which this Article permits the keeping of any livestock, fowl or exotic pet within the City limits, all such animals shall be kept in an enclosed area suitable to prevent the escape of the animal. Any pen, corral, shed, hutch, barn, yard or enclosure in which these animals are kept shall be maintained in a clean and sanitary manner. The owner shall provide and keep a tightly covered box into which all manure or animal refuse shall be placed, and shall haul the same away at least once per week from May 1 to October 1, and at least every two (2) weeks during the winter months, or more often if necessary to control odors, unless an environmentally acceptable alternative is available. (Prior code 9.03.040)

*Division 4  
Miscellaneous Provisions*

**Sec. 7-6-410. Cruelty to and neglect of animals prohibited.**

(a) A person commits the offense of cruelty to animals if, except as authorized by law, he or she knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries in or upon any vehicle in a cruel manner, otherwise mistreats or neglects any animal or causes or procures such act to be done; or, having the charge and custody of any animal, fails to provide it with proper food, drink or protection from the weather or abandons such animal.

(b) In the case of any person incurring a second or subsequent conviction under the provisions of Subsection (a) above, a sentence of not less than ten (10) days' imprisonment shall be mandatory and shall not be subject to suspension; nor shall such person be eligible for probation for any part of such period. A plea of nolo contendere accepted by the Court shall be considered a conviction for the purposes of this Section. (Prior code 9.04.020; Ord. 4 §1, 2005)

**Sec. 7-6-420. Removal of dead animal.**

It is unlawful for the owner or possessor of a dead animal, or the owner of property on which a dead animal is located, to intentionally, knowingly or recklessly permit such dead animal's body or carcass to remain undisposed of for a period of longer than twenty-four (24) hours. No dead animal shall be placed in any City dump but shall either be buried or taken to a place designated by the Chief of Police and

disposed of in a manner prescribed by him or her at the expense of the owner or possessor of the animal.  
(Prior code 9.05.010; Ord. 4 §1, 2005)