GREELEY

MUNICIPAL

CODE

Published in 2020 by Order of the City Council

municode

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OFFICIALS

of the

CITY OF

GREELEY, COLORADO

AT THE TIME OF THIS RECODIFICATION

_____

[Name of Mayor]
Mayor

_____

[Council Member]
[Council Member]
[Council Member]
City Council

_____

[Name of City Manager]
City Manager

_____

[Name of Attorney]
City Attorney

_____

[Name of City Clerk]
City Clerk

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Greeley, Colorado.

Source materials used in the preparation of the Code were the 1994 Code, as supplemented through April 3, 2018, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1994 Code, as supplemented, and any subsequent ordinance included herein.

The various sections within each title have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Title and Section Numbering System

The title and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the title number, and the figure after the dash refers to the position of the section within the title. Thus, the second section of title 1 is numbered 1-2, and the first section of title 6 is 6-1. Under this system, each section is identified with its title, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New chapters, articles and divisions may be included in the same way or, in the case of chapters, may be placed at the end of the title embracing the subject, and, in the case of articles, may be placed at the end of the chapter embracing the subject. The next successive number shall be assigned to the new chapter or article. New titles may be included by using one of the reserved title numbers.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a title of the Code, the number to the left of the colon indicates the number of the title. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
RELATED LAWS	RL:1
SPECIAL ACTS	SA:1
CHARTER COMPARATIVE TABLE	CHTCT:1

Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Mollie M. Garrett, Code Attorney, Julie Lovelace, Vice President - Code Department, and Amanda Heath, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to City Clerks Cheryl Aragon and Betsy Holder, and Assistant City Attorney Susan M. Henderson for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and

those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

Copyright

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PART I

CHARTER

CITY OF GREELEY, COLORADO*

***Editor's note**--Printed herein is the Charter of the City of Greeley. Amendments to the ordinance are indicated by editor's history notes following amended provisions. The absence of an editor's history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform with the system used in the Code of Ordinances. Additions made for clarity are indicated by brackets.

PREFATORY SYNOPSIS

The 21 elected delegates to the Charter Convention have formulated and herewith submit this proposed Charter for the City of Greeley, Colorado, in conformity with the provisions of Article XX of the Constitution of the State of Colorado.

The deliberations and decisions of the Charter Convention have been quite fully reported in the Greeley Daily Tribune, from day to day. In reaching decisions on most of the problems before the Convention unanimity has generally prevailed. On a few of those problems compromises have been reached and agreed upon by majority vote. Subjects covered in the proposed Charter are indicated by Articles number I to XXI inclusive.

Article I provides for the form of City government, with three (3) wards as now, and a City Council of six (6) Councilmen and a Mayor, leaving the present City Council in office until the next City Election on the first Tuesday in November of 1959. At that election one (1) Councilman shall be elected from each ward for a term of two (2) years, and three (3) Councilmen at-large, and every four (4) years thereafter, shall be elected for a term of four (4) years. At the second City Election to be held on the first Tuesday in November of 1961, and every four (4) years thereafter, one (1) Councilman from each ward shall be elected for a term of four (4) years. At the first, and at each subsequent biennial City Election, a Mayor shall be elected for a term of two (2) years.

The proposed Charter provides that the Mayor shall be the Chief Executive Officer of the City, the City Council shall be the policy-making authority, and a City Manager to be appointed by the City Council for an indefinite term, the Chief Administrative Official of the City. Provision is made for a City Clerk and Director of Finance, both to be appointed by the City Manager by and with the advice and consent of the City Council, and to be dismissed only upon recommendation of the City Manager to and approval by the City Council.

Qualifications of elective and appointive officials are stated in appropriate sections, together with limitation of powers and authority conferred upon appointed City officials.

By an appropriate Article, the present status of the City as to sale of malt, vinous, and spirituous liquors is confirmed, and provisions made for proposed changes in that status to be made only upon majority vote of the electorate.

In this proposed Home Rule Charter, the various departments of City government, and the functions of each, have been considered by all 21 members of the Charter Convention. We have carefully examined the Charters of the other Home Rule Cities, and when provisions therein have been found to be applicable and desirable, have adopted the principles thereof in more appropriate language for the City of Greeley. However, in the final analysis, this proposed Home Rule Charter for the City of Greeley, Colorado, has been drafted by members of the Charter Convention with due regard for the best interests of our City, mindful of the high principles of its founding fathers, but, at the same time, looking ahead into the future needs of a fast-growing City.

As required by Article XX of the Constitution of the State of Colorado, we have provided herein for amendment, repeal or revision of this Charter upon petition therefor and vote of the electorate.

We, therefore, recommend the most careful consideration of this proposed Charter at the special election to be held in Greeley on June 24, 1958.

PREAMBLE

We, the people of the City of Greeley, Colorado, in order to promote the general welfare of our community and to exercise the rights, privileges, and responsibilities of self-government granted to us under the authority of

the Constitution of the State of Colorado, do ordain and establish this Home Rule Charter for the City of Greeley, Colorado.

ARTICLE I. GENERAL PROVISIONS

Sec. 1-1. Name; boundaries.

The municipal corporation now existing as the City of Greeley, Weld County, Colorado, shall be known as the "City of Greeley, Colorado," shall remain and continue to be a body politic and corporate under that name and shall have power and authority to change its boundaries in [the] manner authorized by law.

Sec. 1-2. Form of government.

The Municipal Government provided by this Charter shall not be changed except as provided by the Constitution of the State of Colorado. Pursuant to the provisions of the Constitution of the State of Colorado and subject only to limitations imposed therein and by this Charter, all powers of the City shall be vested in an elective City Council, which shall operate under the Council-Manager form of government.

[Editor's] Note—Section 1-2, 1-7 & 1-9 of Art. I, and Section 18-3 of Art. XVIII amended by vote of citizens on August 2, 1983.

[Editor's] Note—Amended by Ord. No. 30,2017, § 2.A, adopted by vote of citizens on November 7, 2017.

Sec. 1-3. Powers of the City.

The City shall have all powers of local self-government and home rule, and all powers possible for a City to have under the Constitution and laws of Colorado, or which it would be competent for this Charter specifically to enumerate or for the general assembly to grant, including all powers enumerated by the statutes of this State now or hereafter applicable to cities of any class or population group whatsoever; and, except as prohibited by the constitution or laws of the State, the City may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. Such powers shall be exercised in conformity with the provisions of this Charter, or in such manner as may be provided by the Council, not inconsistent with this Charter.

The enumeration of particular powers in this Charter shall not be deemed to be exclusive of others, nor restrictive of general words or phrases granting powers, nor shall a grant or failure to grant power in this article impair a power granted in any other part of this Charter; and whether powers, objects or purposes are expressed conjunctively or disjunctively they shall be construed so as to permit the Council to exercise freely any one (1) or more such powers as to any one (1) or more such objects for any one (1) or more such purposes.

Sec. 1-4. Reserved.

[Editor's] Note—Ord. No. 19, 2015, § 2, repealed Section 1-4, Present Ordinances in Force, by vote of the citizens on November 3, 2015.

Sec. 1-5. Constitutionality.

In case any word, phrase, sentence, paragraph, section, or article of this Charter shall at any time be found to be unconstitutional, such finding shall not affect the remainder thereof, but, as to such remainder, this Charter shall remain in full force and effect until amended or repealed.

Sec. 1-6. Amending the Charter.

Amendments to this Charter may be framed and submitted to the electors through petitioning the Council, or by the Council on its own initiative, in accordance with the provisions of Article XX of the Constitution of the State of Colorado. Nothing herein contained shall be construed as preventing the submission to the people of more than one (1) Charter amendment at any one (1) election.

Sec. 1-7. Detachment from City.

No tract or parcel of land within the boundaries of the City shall be detached by any owner or owners from the City, except upon a majority of votes cast of the qualified electors of the City; and the question of detachment from the City shall be submitted to said vote upon deposit by said owner or owners with the Director of Finance of the expense thereof which shall be determined by the Director of Finance.

[Editor's] Note—Section 1-2, 1-7 & 1-9 of Art. I, and Section 18-3 of Art. XVIII amended by vote of citizens on August 2, 1983.

[Editor's] Note—Amended by Ord. No. 56, 2007, § 2, adopted by vote of citizens on November 6, 2007.

Sec. 1-8. Construction of words.

Whenever such construction is applicable, words used in this Charter importing singular or plural numbers may be construed so that one (1) number includes both; words importing a gender may be construed to apply to the opposite gender as well; and the word person may be extended to include person(s), firms, and corporations; provided that these rules of construction shall not apply to any part of this Charter containing express provisions excluding such construction or where subject matter or content is contrary thereto. Language for all future Charter sections and Ordinances shall be written to be gender neutral whenever possible. All existing Charter articles containing language which is not gender neutral shall be amended to reflect that gender neutrality.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 1-9. Definitions.

Certain words and phrases when used herein are hereby declared to have the following meanings:

a. "Agency" shall mean any bureau, department, division or other organizational unit in the executive branch of City government;

b. "Appropriation" shall mean an authorization by the Council to expend from public funds a specific maximum sum for a specified purpose and during a specified time;

c. "Candidate" shall mean any person seeking nomination or election to any City office in Greeley;

d. "City" shall mean City of Greeley, Colorado;

e. "Council" shall mean City Council;

f. "Department" shall mean one (1) of the major organizational units of the City;

g. "Division" shall mean a primary subdivision of a department headed by one (1) person responsible directly to the department director;

h. "Emergency Ordinance" shall mean an ordinance, the passage of which shall be necessary, to the preservation or protection of public health, property, or safety;

i. "Employees" shall mean all persons in municipal service who are not officers;

j. "General Law" shall mean the Constitution and Statutes of the State of Colorado and common law to the extent that common law has been adopted in Colorado;

k. "Officers" shall mean persons in municipal service specifically declared by this Charter to be officers;

l. "Qualified Elector" shall mean a resident of the City who is qualified to vote under the Constitution and statutes of the State of Colorado, and who is registered to vote; the term "qualified voter" is synonymous with "qualified elector."

[Editor's] Note—Section 1-2, 1-7 & 1-9 of Art. I, and Section 18-3 of Art. XVIII amended by vote of citizens on August 2, 1983.

ARTICLE II. ELECTIVE OFFICERS

Sec. 2-1. Elective Officers.

The Elective Officers of the City of Greeley, Colorado, shall be six (6) Councilmembers and a Mayor nominated and elected by the qualified electors of the City of Greeley as in this Charter provided.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 2-2. Wards.

The City shall be divided into four (4) wards, bounded and numbered consecutively in a clockwise fashion beginning with the northeast ward, which shall be Ward I. The City Council shall not more often than once in four

(4) years, by ordinance, readjust the ward boundaries, so as to comprise compact and contiguous territory, and so as to contain, as nearly as possible, an equal number of inhabitants. The City Council shall provide for adequate polling places in each ward.

[Editor's] Note—Ord. No. 41, § 2, 9-17-91.

[Editor's] Note—Amended by Ord. No. 19, 2015, § 1, adopted by vote of citizens on November 3, 2015.

Sec. 2-3. Terms.

a. The term of office of the councilmember hereafter to be elected in accordance with the provisions of this Charter shall commence at the first regular or special meeting following their election, and shall continue during the term for which they shall have been elected and until their successors shall have been elected and qualified.

Except for the filling of vacancies, the Mayor shall be elected for a term of two (2) years and all councilmembers for a term of four (4) years. The Mayor, two (2) Council ward seats and one (1) Council at-large seat shall be elected at every general municipal election.

b. Mayor Runoff Election. If no candidate for Mayor receives a majority of votes cast, a runoff election shall be held between the two (2) candidates receiving the largest number of votes.

[Editor's] Note—Ord. No. 41, § 2, 9-17-91.

[Editor's] Note—Amended by Ord. No. 49, 2007, § 2, adopted by vote of citizens on November 6, 2007.

[Editor's] Note—Amended by Ord. No. 19, 2015, § 1, adopted by vote of citizens on November 3, 2015.

Sec. 2-4. Qualifications.

No person shall be eligible to the office of Mayor or Council unless the candidate is a citizen of the United States, at least twenty-one (21) years of age, shall have been for one (1) year immediately preceding such election a resident of the City of Greeley, Colorado, shall have been for ninety (90) days immediately preceding such election a resident of the candidate's Ward. A person who has been convicted of a felony shall not be eligible to become a candidate for a City office. No elected official shall hold any other elective public office. No elected City officer shall be permitted to run for any elective City office, except that held by the elected officer, unless notice is given in writing to the City Clerk of the office holder's intention to so run at least ninety (90) days prior to the date of the next municipal election. Such notice shall not be withdrawn after the 91st day preceding the next municipal election. When such notice is given and not withdrawn, the office of that elected officer shall be automatically vacated at 7:29 p.m. on the next Tuesday of November following said election. The vacancy which is created shall be filled by election at the general municipal election next following such notice. The term of office shall be for the unexpired term of the Elected Officer giving notice.

[Editor's] Note—Ord. No. 10, § 2, 3-15-91.

[Editor's] Note—Ord. No. 41-1993, § 2, 9-7-93.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 2-5. Vacancies.

If a vacancy occurs in the Office of Mayor or Councilmember, the Council shall appoint an eligible person to fill such vacancy until the next general municipal election subject to the provisions of Section 2-4. Any such vacancy shall be then filled by election for the unexpired term. A vacancy shall exist when an elective officer fails to qualify within ten (10) days after notice of election, dies, resigns, is removed from office, removes from the City, removes from the elective officer's Ward, (applies only to Ward Councilmembers), is absent continually therefrom for more than six (6) months, is convicted of a felony or is judicially declared mentally ill. That such cause of vacancy exists shall be established by competent evidence thereof and placed on record in the City Council Minutes.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 2-5(a). Vacancy concerning other elective office.

A vacancy shall exist when an elective officer accepts a nomination, designation or appointment for any governmental elective office other than the City of Greeley.

[Editor's] Note—Added to the Charter by vote of citizens on November 3, 1970.

Sec. 2-6. Compensation of mayor and councilmembers.

The members of the City Council shall receive such compensation as the City Council shall by ordinance prescribe; provided, however, they shall neither increase nor decrease the compensation of any member of the Council during their term.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 2-7. Oath of office.

Before entering upon the duties of office, every officer designated by this Charter shall take, subscribe, and file with the City Clerk, an oath or affirmation that the officer will support the Constitution of the United States, the Constitution of the State of Colorado, this Charter and the Ordinances of the City of Greeley, Colorado, and will faithfully perform the duties of the office.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 2-8. Appointive boards and commissions.

Unless otherwise required by this Charter or by law, all Boards and Commissions shall be appointed by the Council and shall have such powers and perform such duties as are prescribed by this Charter or by ordinance, and unless otherwise provided by this Charter, any member of a Board or Commission may be removed by the Council for cause after public hearing. Any Board or Commission not specifically created by this Charter shall be subject to periodic review by Council every three (3) years after the date of its creation. After review, Council may re-authorize the Board or Commission's authority or allow the Board or Commission to lapse by a majority vote of the entire Council.

[Editor's] Note—Amended by Ord. No. 61, 2001, § 2, adopted by vote of citizens on November 6, 2001.

[Editor's] Note—Amended by Ord. No. 56, 2007, § 2, adopted by vote of citizens on November 6, 2007.

Sec. 2-9. Terms; limitations.

a. Councilmember Term Limitation. No person shall serve as councilmember for more than two (2) consecutive four-year terms, including all consecutive four-year terms, including all consecutive term combinations of at-large councilmember and ward councilmember.

b. Mayor Term Limitation. No person shall serve as Mayor for more than four (4) consecutive two-year terms.

c. For purposes of this Section 2-9, terms are considered consecutive unless they are at least four years apart.

[Editor's] Note—Ord. No. 42, § 2, 9-17-91.

[Editor's] Note—Amended by Ord. No. 20, 2015, § 1, adopted by vote of citizens on November 3, 2015.

ARTICLE III. THE COUNCIL

Sec. 3-1. Legislative power.

The corporate authority of the City of Greeley, Colorado, shall be vested in a Mayor and six (6) Councilmembers, to be denominated the City Council. The legislative powers of the City shall extend to all subjects of legislation not forbidden by the Constitution of the United States, the Constitution of the State of Colorado, and the provisions of this Charter.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 3-2. Mayor.

a. The Mayor shall preside over meetings of the City Council and have the same right to speak and vote therein as any other member. The Mayor shall be recognized as head of the City Government for all ceremonial purposes. The Mayor shall execute and authenticate legal instruments requiring the Mayor's signature as such an official. The City Council within their membership, shall elect, at their first meeting following their election, a Mayor pro tem who shall become acting Mayor with the same duties as provided for the Mayor in the Mayor's

absence or disability. The Mayor shall in no case have the power of veto.

b. The Mayor shall be a conservator of the peace, and in emergencies may exercise within the City the powers conferred by the Governor of the State of Colorado for purposes of military law, and shall have authority to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the City and to suppress riot and disorder. In the absence of the Mayor and Mayor pro tem, the Mayor shall designate a written emergency succession order for the remaining Councilmembers. The Mayor, Mayor pro tem or succeeding Councilmembers shall have the authority to suppress riot and disorder and may exercise all powers conferred by the Governor of the State for purposes of military law. If any emergency Council designate is not available immediately and the emergency dictates, the next designate in order of succession may be contacted.

[Editor's] Note—Amended by vote of citizens on November 4, 1997; amended by Ord. No. 62-2001, § 3 adopted by vote of citizens on November 6, 2001.

Sec. 3-3. Membership rules.

Except as otherwise provided in this Charter, the Council shall be the judge of the election and qualifications of its own members, shall determine its own rules of procedures, and may compel the attendance of absent members in such manner and under such penalties as the Council may provide.

Sec. 3-4. General powers and powers expressly withheld from Council.

The Council shall have all legislative powers and functions of municipal government conferred by general law, except as otherwise provided in this Charter.

The Council shall approve the minimum and maximum schedule of compensation for boards, commissions, and all employees of the City.

The Council, or a duly authorized committee thereof, may investigate any agency and the official acts of any officer or employee thereof, and may compel by subpoena, attendance and testimony of witnesses and production of books and documents.

The Council shall provide for enforcement of its ordinances. No fines or imprisonments shall exceed the following limits: Fines, One Thousand Dollars ($1,000.00); Imprisonment, One (1) year or a combination of both fine and imprisonment within the designated limits.

Certain powers shall be expressly withheld from Council. Except for the purpose of inquiry, the Council and members of its committees, shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately.

[Editor's] Note—Section 3-4, 3-5, 3-13, 3-15, 3-16, 3-17, & 3-18 of Art. III amended by vote of citizens on August 2, 1983.

[Editor's] Note—Section 3-4 amended by vote of citizens on November 7, 1989, by deleting Section 4-4 and moving its text to Section 3-4 as powers expressly withheld from Council.

[Editor's] Note—Ord. No. 40, § 2, 9-17-91.

Sec. 3-5. Power to make contracts.

The City may enter into agreements, contracts and leases with governmental and private entities which have been authorized by the City Council, or which are consistent with the specific policy established by the City Council by ordinance.

Nothing shall prevent the making of contracts or spending of money for capital improvements to be financed in whole or in part by issuance of bonds, nor making of agreements, contracts or leases for services for a period exceeding the budget year in which a contract is made, if otherwise permissible by law.

[Editor's] Note—Section 3-4, 3-5, 3-13, 3-15, 3-16, 3-17, & 3-18 of Art. III amended by vote of citizens on August 2, 1983.

[Editor's] Note—Ord. No. 53-1992, § 2, 7-7-92; amended by Ord. No. 62-2001, § 3 adopted by vote of citizens on November 6, 2001.

Sec. 3-6. Abandonment of streets, alleys, public highways and public parks.

No street, alley, or other public highway shall be abandoned except by ordinance. No public park shall be vacated, sold or abandoned as such without a majority of votes cast of the qualified electors of the City.

[Editor's] Note—Amended by Ord. No. 56, 2007, § 2, adopted by vote of citizens on November 6, 2007.

Sec. 3-7. Reserved.

[Editor's] Note—Section 3-7, Contracts with Other Governmental Bodies, repealed by Ord. No. 53-1992, § 2, adopted July 7, 1992.

Sec. 3-8. Independent audits.

The Council shall contract with or employ an independent practicing individual or firm, permitted to practice public accounting under general law and of known standing, to perform an annual general audit of Municipal Government and such other periodic post audit as the Council may determine. All reports prepared by such auditors shall be made direct to the City Council. The audits herein provided shall include:

a. Post auditing all financial records and transactions of the Municipal Government and all public funds belonging to or under control of the City, at length or by test checks.

b. Verification and preparation of financial statements, existence and amounts of assets and liabilities of the Municipal Government; verification and preparation of financial statements concerning all public funds; such statements shall include financial condition of all funds, as well as statements of revenues, expenditures, receipts, commitments and encumbrances as may be appropriate.

c. Recommendations to the City Manager concerning the scope, form and content of the financial records to be kept by all agencies in order to permit accepted auditing procedures.

d. A review of the system of internal control with respect to method and procedures concerning monies and property belonging to the City.

e. A report of deficiencies to proper officials for administrative, civil or criminal action.

f. Appropriate comments relative to inventory controls and the extent of audit procedures performed.

g. A condensed financial statement, together with the auditor's opinion relative to the statements and City financial affairs which shall be published annually.

Sec. 3-9. City Clerk.

The City Clerk shall be appointed by the City Manager, by and with the advice and consent of the City Council, and shall be subject to removal by the City Manager, upon recommendation to and approval thereof by the City Council. The City Clerk shall act as Clerk of the Council, give notice of Council meetings, keep a journal of its proceedings, authenticated by the City Clerk's signature, and record in full in the book kept for the purpose, all ordinances and resolutions and shall perform such other duties as shall be required by this Charter or by ordinance.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 3-10. Functions and operations of the City.

Unless otherwise provided by this Charter, the Council may by ordinance organize the various functions and operations of the City as circumstance may warrant to promote the efficiency of government so long as any function or service required by this Charter is maintained.

[Editor's] Note—"Creation of New Departments or Offices; Charges and Duties" amended and retitled "Functions and Operations of the City" by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993.

Sec. 3-11. Licenses and permits.

The Council may provide for licenses and permits and fees therefor, for regulatory or revenue purposes. The Council or its designee shall hear and decide appeals relating to issuance, suspension or revocation of licenses or permits.

[Editor's] Note—Amended by Ord. No. 50, 2007, §2, adopted by vote of citizens on November 6, 2007.

Sec. 3-12. Surety bonds.

The Council shall require the City Manager, the Director of Finance and such other employees transacting financial business of the City to furnish bonds with such surety and in such amounts as the Council may determine. The premiums of such bonds shall be paid by the City.

Sec. 3-13. Meetings; quorum.

a. *Public Meetings.* A majority of the membership of the entire Council shall constitute a quorum to do business. A meeting is defined as a prearranged meeting, other than social functions, of three (3) or more members of City Council where public business is discussed.

The Council shall prescribe the time and place of its meetings at an hour to be fixed from time to time by the rules and procedures of each Council; and the Council shall have power by ordinance to prescribe the manner of calling meetings thereof. The Council shall keep records of all public meetings, which records shall become a public record.

b. *Executive Sessions.* Executive sessions shall only be held as provided by ordinance.

[Editor's] Note—Section 3-4, 3-5, 3-13, 3-15, 3-16, 3-17, & 3-18 of Art. III amended by vote of citizens on August 2, 1983.

[Editor's] Note—Section 3-13 amended by vote of citizens on November 7, 1989, to provide a definition of "Public Meetings" and outline provisions for the use of Executive Sessions and notice requirements for same; amended by Ord. No. 62-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 3-14. Ordinances; resolutions; motions.

In all legislative matters coming before it, the Council shall act only by ordinance, resolution or motion. The ayes and nays shall be taken upon the passage of all ordinances, resolutions and motions, and entered upon the journal of the Council proceedings. Every member, when present, must vote, unless excused by majority vote of the Council present. Every ordinance shall require a majority vote of the entire Council for final passage.

[Editor's] Note—Amended by Ord. No. 56, 2007, § 2, adopted by vote of citizens on November 6, 2007.

Sec. 3-15. Ordinances; when required.

In addition to such acts of the Council as are required by general statutes or by other provisions of this Charter to be by ordinance, every act creating, altering or abolishing any agency or office, fixing compensation, making an appropriation, authorizing the borrowing of money, levying a tax, establishing any rule or regulation of the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance. Council action also shall be taken by ordinance if specifically provided by other provisions of this Charter or if provided by state law applicable to home rule cities.

[Editor's] Note—Section 3-4, 3-5, 3-13, 3-15, 3-16, 3-17, & 3-18 of Art. III amended by vote of citizens on August 2, 1983.

Sec. 3-16. Form of ordinances.

Every ordinance, except the Annual Budget Ordinance and an ordinance making a general codification of ordinances, shall be confined to a single subject which shall be clearly expressed in its title. All ordinances shall be introduced in written or printed form. All ordinances which amend or repeal existing ordinances shall, for the information of City Council, have as an appendix thereto a copy of the existing ordinance or ordinances to be amended or repealed setting forth in full the section or sections to be amended or repealed. The enacting clause of the ordinance shall be "BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY, COLORADO. . .." Unless another date is specified therein, an ordinance shall take effect on the fifth day following its final publication.

[Editor's] Note—Section 3-4, 3-5, 3-13, 3-15, 3-16, 3-17, & 3-18 of Art. III amended by vote of citizens on August 2, 1983.

Sec. 3-17. Procedure for passage and publication.

The following procedure for enactment of ordinances shall be followed:

a. The ordinance shall be introduced at any regular or special meeting of the Council by any member thereof.

b. The reading of an ordinance shall consist only of reading the title thereof, provided that copies of the full ordinance proposed shall have been available in the office of the City Clerk at least forty-eight (48) hours prior to the time such ordinance is introduced for each member of the City Council, and for inspection

and copying by the general public, and provided further that a majority of the City Council may request that an ordinance be read in full at any reading of the same, in which case such ordinance shall be read in full at such reading.

c. After the introduction of the ordinance and any amendments thereof, the same shall be approved or rejected by the vote of the Council.

d. If the ordinance is approved on first introduction, it shall be published in full unless otherwise provided herein. The Council shall set a date, hour and place at which the Council shall hold a public hearing on the ordinance, and notice of said day, hour and place shall be included in first publication.

e. The ordinance shall be introduced at Council the second time at a meeting not earlier than ten (10) days after first publication for final approval, rejection or other action as may be taken by vote of the Council. This meeting may be the same meeting at which the public hearing on the ordinance is held. The ordinance may be amended before the final approval by the vote of the Council.

f. Except as otherwise provided in this Charter, an ordinance, if amended in substance, shall be published in full after final passage. But if not amended in substance, it shall be published either by title or in full as the Council may determine.

g. Whenever an ordinance shall be published by reference or by title, the publication shall contain a summary of the subject matter of said ordinance and shall contain a notice to the public that copies of the proposed ordinance are available at the office of the City Clerk.

h. Standard codes promulgated by the Federal Government, the State of Colorado, or by an agency of either of them, or by recognized trade or professional organizations, or amendments or revisions thereof, may be adopted by reference following a public hearing, provided the publication of the bill or ordinance adopting any said code shall advise that copies thereof are available for inspection at the office of the City Clerk, and provided that any penalty clause in said codes may be adopted only if set forth in full and published in the adopting ordinance. Primary codes thus adopted may in turn adopt secondary codes.

[Editor's] Note—Section 3-4, 3-5, 3-13, 3-15, 3-16, 3-17, & 3-18 of Art. III amended by vote of citizens on August 2, 1983.

[Editor's] Note—Amended by Ord. No. 62-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 3-18. Emergency ordinances.

Emergency ordinances for the immediate preservation or protection of public health, property or safety may be introduced at a regular meeting or at any special meeting, provided the subject thereof has been included in the notice of such special meeting. An emergency ordinance shall be presented the first time and published as provided in the case of other ordinances and may be read a final time with or without amendment at any regular or special meeting subsequent to such publication. An emergency ordinance shall contain a specific statement of the emergency and shall require a two-thirds vote of the entire Council for adoption as an emergency measure. No ordinance making a grant or any franchise or any special privilege shall ever be passed as an emergency ordinance.

An emergency ordinance shall be in effect for no more than ninety (90) days after passage, and shall not again be passed as an emergency ordinance.

[Editor's] Note—Section 3-4, 3-5, 3-13, 3-15, 3-16, 3-17, & 3-18 of Art. III amended by vote of citizens on August 2, 1983.

[Editor's] Note—Amended by Ord. No. 56, 2007, § 2, adopted by vote of citizens on November 6, 2007.

Sec. 3-19. Disposition of ordinances.

The Mayor shall sign and the City Clerk shall attest to all ordinances approved by the Council, both on the ordinance itself and in the ordinance record. All ordinances of the City of Greeley shall be indexed by subject by the City Clerk in a book kept for that purpose, which shall be public record.

Sec. 3-20. Ordinance codification.

The Council shall cause the permanent ordinances to be codified periodically. Such codification may be of the entire body of permanent ordinances or of the ordinances of some particular subject. Such codification may be reenacted by reference by the Council or may be authenticated in such manner as may be designated by ordinance.

No codification ordinance shall be invalid on the grounds that it deals with more than one (1) subject.

ARTICLE IV. CITY MANAGER

Sec. 4-1. Appointment.

The City Council shall appoint a City Manager as administrative head of the Municipal Government under the direction, supervision and control of the City Council, and shall hold office for an indefinite term. The City Manager shall be appointed without regard to any consideration other than fitness and competency and training and experience as a City Manager. At the time of appointment the City Manager need not be a resident of the City of Greeley, Colorado, but during tenure of the office the City Manager shall reside within the City of Greeley, Colorado. No member of the City Council shall be appointed City Manager during the term for which the member of Council shall have been elected nor within one (1) year after the expiration of the member's term. The Council may appoint or designate an Acting City Manager during the period of a vacancy in the office or during the absence of the City Manager from the City. Such Acting Manager shall, while holding such office, have all the responsibilities, duties, functions and authority of the City Manager.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 4-2. Powers and duties.

The City Manager shall be the Chief Administrative Officer of the City and shall be responsible to the Council for the proper administration of all of the City's affairs. To that end the City Manager shall have power and shall be required to:

a. Be responsible for enforcement of the laws and ordinances of the City;

b. Except as such powers may be specifically otherwise designated herein, have power to appoint, suspend and remove heads of all departments, and City employees; suspension or dismissal of the head of a department must be by written statement giving the reasons for such action, a copy of which must be delivered to the person concerned; all appointments shall be based upon merit and fitness alone; provided, however, that in the Classified Service all appointments, suspensions, and removals shall be subject to the Civil Service and personnel provisions of the Charter of Greeley;

c. Prepare the Budget annually and submit it to the Council and be responsible for its administration after adoption;

d. Prepare and submit to the Council as of the end of the fiscal year, a complete report on finances and administrative activities of the City for the preceding year, and make written or verbal reports to the Council at any time required by it as to any particular matter relating to the affairs of the City within the City Manager's supervision;

e. Keep the Council advised of the financial condition and future needs of the City, and make such recommendations to the Council for adoption as the City Manager may deem necessary or expedient;

f. Except as herein otherwise provided, exercise supervision and control over all administrative departments and agencies created herein or that may be hereafter created by the Council;

g. Be responsible for enforcement of all terms and conditions imposed in favor of the City or its inhabitants in any contract or public utility franchise and upon knowledge of any violation thereof, report the same to the Council for such action and proceedings as may be necessary to enforce the same;

h. Inform the public clearly on City government functions and activities;

i. Perform such duties as may be prescribed by this Charter or required of him by the Council not inconsistent with this Charter.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 4-3. Termination of employment of City manager.

The City Manager shall be employed for an indefinite term, which may be terminated by a majority vote of the entire City Council. Upon such termination, the Council may, in its discretion, provide termination pay.

[Editor's] Note—Amended by vote of citizens on November 4, 1969. Previous Section 4-3 read as follows: "The City Manager shall be employed for an indefinite term, which may be terminated by a majority vote of the City Council. Upon such termination, the Council may in its discretion provide termination pay."

[Editor's] Note—Amended by Ord. No. 56, 2007, § 2, adopted by vote of citizens on November 6, 2007.

[Editor's] Note—Amended by Ord. No. 21, 2015, § 2, adopted by vote of citizens on November 3, 2015.

Sec. 4-4. Reserved.

[Editor's] Note—Section 3-4 amended by vote of citizens on November 7, 1989, by deleting Section 4-4 and moving its text to Section 3-4 as powers expressly withheld from Council.

Sec. 4-5. Reserved.

[Editor's] Note—Section 4-5, Administrative Departments, amended by vote of citizens on November 7, 1989, to delete reference to specific departments—repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993.

Sec. 4-6. Directors of departments.

Each department shall be headed by a Director appointed by and subject to the City Manager, except as otherwise designated by this Charter.

Two (2) or more departments may be headed by the same individual. The City Manager may head one (1) or more departments.

Sec. 4-7. Reserved.

[Editor's] Note—Section 4-7, Departmental Divisions, repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993.

ARTICLE V. DEPARTMENT OF FINANCE

Part I. Finance

Sec. 5-1. Department created.

A Department of Finance is hereby established, the head of which shall be the Director of Finance and Ex-officio City Treasurer. The Director shall be appointed by the City Manager, by and with the advice and consent of the City Council and shall be subject to removal by the City Manager, upon recommendation to and approval thereof by the City Council. The Director shall be adequately bonded, have training and knowledge in municipal accounting, budgeting, taxation and financial control.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 5-2. Director of Finance; powers and duties.

The Director of Finance shall have charge of the administration of the financial affairs of the City and to that end shall have authority and shall be required to:

a. Compile financial information and data needed for the City Manager's annual budget report;

b. Supervise and be responsible for the disbursement of all monies and have control over all expenditures to ensure that appropriations are not exceeded, or payments illegally made;

c. Design and maintain a general accounting system for the City in accordance with accepted accounting principles, and develop and maintain internal audit controls in accordance with accepted auditing practice;

d. Prepare for the City Manager statements of receipts and disbursements showing the financial and budgetary condition of the City. Such statements shall be prepared quarterly or monthly if requested by the City Manager;

e. Prepare annual financial statements as soon as practicable after the end of each fiscal year;

f. Prepare tax maps and give such notice of taxes and special assessments as may be required;

g. Collect all taxes, special assessments, license fees and other revenues of the City or for whose collection the City is responsible and receive all money receivable by the City from the County, State or Federal

Government, or from any court, or from any office, department, or agency of the City, or any other agency or office which is not in existence but which may in the future be created or provided for;

h. Take and keep custody over all monies, securities and credits belonging to or under the control of the City; and deposit and invest such monies as directed by the City Council or, absent any such direction, as provided for or authorized by applicable state law.

[Editor's] Note—Section 5-2, 5-3, 5-4, 5-5, 5-6, 5-8, 5-12, 5-18, 5-19, 5-20, & 5-21 amended; Section 5-7 deleted and 5-24 changed to 5-10A by vote of citizens on August 2, 1983.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 5-3. Accounting; supervision and control.

The Director of Finance shall exercise proper accounting controls, and to this end the Director of Finance shall:

a. Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the City Government;

b. Examine and approve or disapprove all contracts, orders and other documents by which the City Government incurs financial obligations, having previously ascertained that monies have been appropriated and allotted and will be available when the obligations shall become due and payable;

c. Audit and approve or disapprove before payment of all bills, invoices, payrolls and other evidences of claims, demands or charges against the City Government and with the advice of the Office of the City Attorney determine the regularity, legality and correctness of such claims, demands or charges;

d. Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the City Government apart from or subsidiary to the accounts kept in the Director's office.

[Editor's] Note—Section 5-2, 5-3, 5-4, 5-5, 5-6, 5-8, 5-12, 5-18, 5-19, 5-20, & 5-21 amended; Section 5-7 deleted and 5-24 changed to 5-10A by vote of citizens on August 2, 1983.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 5-4. Lapse of appropriations.

Except as hereinafter provided, all appropriations shall lapse at the end of the budget year, to the extent that they shall not have been expended, committed, reserved or lawfully encumbered; however, appropriations for capital projects shall in no event lapse before the end of the second full year after the budget year.

[Editor's] Note—Section 5-2, 5-3, 5-4, 5-5, 5-6, 5-8, 5-12, 5-18, 5-19, 5-20, & 5-21 amended; Section 5-7 deleted and 5-24 changed to 5-10A by vote of citizens on August 2, 1983.

Sec. 5-5. General and special funds.

All revenues of the City shall be accounted for under a general fund and one (1) or more special funds. Revenues which legally are not available for the general operations of the City shall be allocated to special funds. All other revenues shall be allocated to the general fund.

[Editor's] Note—Section 5-2, 5-3, 5-4, 5-5, 5-6, 5-8, 5-12, 5-18, 5-19, 5-20, & 5-21 amended; Section 5-7 deleted and 5-24 changed to 5-10A by vote of citizens on August 2, 1983.

Sec. 5-6. Expenditures.

All expenditures shall be charged to the appropriate budget account under the direction of the Director of Finance. Expenditures may be made by check, electronic transfer or any other legal payment method as provided by ordinance and enacted by the City Council. All expenditures shall be signed or authorized by two (2) City officials, elective or appointive, as designated by ordinance enacted by the City Council.

[Editor's] Note—Section 5-2, 5-3, 5-4, 5-5, 5-6, 5-8, 5-12, 5-18, 5-19, 5-20, & 5-21 amended; Section 5-7 deleted and 5-24 changed to 5-10A by vote of citizens on August 2, 1983.

[Editor's] Note—Amended by Ord. No. 64-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 5-7. Reserved.

Part II. Purchases

Sec. 5-8. Reserved.

[Editor's] Note—Section 5-8, Division of Purchasing, previously amended by vote of the citizens on August 2, 1983, repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993.

Sec. 5-9. City contracts.

As provided by ordinance, the City may make any purchase of supplies, materials, equipment or services after giving opportunity for competitive bidding as the City Council may prescribe. Nothing herein shall prevent the City from obtaining any supplies, materials, equipment, improvement or services without competitive bidding in the City's sole discretion. The Charter hereby grants to City Council the authority to set, by ordinance, all rules and regulations necessary for purchasing goods and services by the City of Greeley.

[Editor's] Note—Ord. No. 45-1993, § 4, 9-7-93; amended by Ord. No. 64-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 5-10. Reserved.

[Editor's] Note—Section 5-10, Contracts for City Improvements, previously amended by vote of the citizens on September 7, 1993, repealed by Ord. No. 64-2001, § 3, adopted by vote of citizens on November 6, 2001.

Part III. Budget

Sec. 5-11. Fiscal year.

The fiscal year of the City Government shall begin the first day of January in each year and end on the last day of the succeeding December.

Sec. 5-12. Budget presentation.

The City Manager shall prepare and submit to the City Council on or before the fifteenth of September of each year a recommended budget covering the next fiscal year, and shall include therein at least the following information:

a. Detailed estimate with supporting explanations of all proposed expenditures for each agency of the City, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for as much of the current fiscal year as is possible, with the balance of the current fiscal year being covered by estimates;

b. Statements of the bonded and other indebtedness of the City, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;

c. Detailed estimates of all anticipated revenues of the City from sources other than taxes with a comparative statement of the amount received by the City from each of the same similar sources for the last preceding fiscal year in full, and for as much of the current fiscal year as is possible, with the balance of the current fiscal year being covered by estimates;

d. A statement of the estimated balance or deficit for the end of the current fiscal year;

e. An estimate of the amount of money to be raised from current and delinquent taxes, and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenue from other sources, will be necessary to meet the proposed expenditures;

f. Such other supporting information as the City Council may request or as may be otherwise required by this Charter.

[Editor's] Note—Section 5-2, 5-3, 5-4, 5-5, 5-6, 5-8, 5-12, 5-18, 5-19, 5-20, & 5-21 amended; Section 5-7 deleted and 5-24 changed to 5-10A by vote of citizens on August 2, 1983.

Sec. 5-13. Budget hearing.

A public hearing on the proposed budget shall be held before its final adoption at such time and place as the

City Council shall direct. Notice of such public hearing, a brief summary of the proposed budget and notice that the proposed budget is on file in the office of the City Clerk shall be published at least two (2) weeks in advance of the hearing. The complete proposed budget shall be on file for public inspection during office hours at such office for a period of not less than one (1) week prior to such hearing.

Sec. 5-14. Certification of tax levy.

Prior to such date as may be required by state law, the City Council shall set a tax levy and certify same to the County Commissioners.

Sec. 5-15. Adoption of budget.

Upon completion of the public hearing and the tax levy certification, but not later than December 15, the City Council shall adopt the budget and make the necessary appropriations by ordinance.

Sec. 5-16. Reserved.

[Editor's] Note—Section 5-16, Transfers of Appropriations, repealed by Ord. No. 64-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 5-17. Additional appropriations.

The City Council may transfer any uncommitted, unreserved, unencumbered or unexpended appropriation balances or portions thereof from one department, office or agency to another, except as otherwise provided in this Charter and may make additional appropriations during the fiscal year for unanticipated expenditures, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget, unless the appropriations are necessary to relieve an emergency endangering the public health, peace or safety.

[Editor's] Note—Amended by Ord. No. 64-2001, § 3, adopted by vote of citizens on November 6, 2001.

Part IV. Borrowing and Other Financial Transactions

[Editor's] Note—Part IV amended by vote of citizens on November 6, 2001, changing the name, and all references thereto, from "Bonded Indebtedness" to "Borrowing and Other Financial Transactions."

Sec. 5-18. Forms of borrowing.

The City may borrow money and issue short-term notes, general obligation bonds, revenue bonds, special or local improvement bonds, or any securities not in contravention of this Charter. The City may borrow money and issue the following securities to evidence such indebtedness;

a. *Short-term notes.* The City, upon a majority vote of the entire Council, is hereby authorized to borrow money without an election in anticipation of the collection of taxes or other revenues and to issue short-term notes to evidence the amount so borrowed. Such short-term notes shall mature before the close of the fiscal year in which the money is so borrowed, and shall not be extended or funded except in compliance with Section 5-18c, General Obligation Securities, of this section;

b. *Special or Local Improvement District Bonds; Issuance.* The City Council shall have power upon petition or by its own initiative to construct, install, or cause, or permit the same to be done, special or local improvements of every character within designated districts in said City, which improvements shall confer special benefits on the real property within said districts and general benefits to the City at-large. The City Council shall by ordinance prescribe the method and manner of making such improvements, of letting contracts therefor, assessing the cost thereof, and issuing and paying bonds or warrants for costs and expenses of construction or installing said improvements, providing that nothing herein shall be construed to limit the power of the City Council to act in accordance with the Constitution and Statutes of Colorado in carrying out such purposes.

c. *General Obligation Securities.* The City Council shall have the power to issue general obligation bonds of the City for any public capital purpose, upon a majority of votes cast of the qualified electors of the City at any special or general election, except that water or sewer bonds may be issued without the vote of the people. The total outstanding general obligation indebtedness of the City, other than for water or

sewer bonds, shall not at any time exceed ten (10) per centum of the assessed valuation of the taxable property within the City as shown by the last preceding assessment for tax purposes. Securities issued for water or sewer purposes may be issued by Council action without an election and shall not be included in the determination of such debt limitation. General obligation bonds and securities issued for water and sewer purposes shall mature and be payable as provided by ordinance authorizing the issuance of said bonds or securities.

[Editor's] Note—Amended to increase the total assessed valuation limit from three (3) to ten (10) percent by vote of citizens on November 1, 1977.

d. *Revenue Securities.* The City, by a majority vote of the entire Council, and without an election, may issue securities made payable solely from revenues derived from the operation of the project or capital improvement acquired with the securities' proceeds, or from other projects or improvements or from the proceeds of any sales tax, use tax or other excise tax, or solely from any source or sources or any combination thereof, other than ad valorem taxes of the City.

e. *Refunding Securities.* The City, pursuant to ordinance, may issue its bonds or other securities without an election for the purpose of refunding outstanding general obligation or revenue bonds, or other such securities, and it shall be the duty of the Council to refund such securities whenever it determines it is advantageous and favorable to the City to do so. Any such refunding revenue bonds or other revenue securities shall be payable solely from the net revenues of the system, utility or other income producing project acquired, extended, or improved; the proceeds of any sales tax, use tax or other excise tax; with proceeds from issuance of the securities so refunded. Refunding bonds shall not extend beyond the period of usefulness estimated the time of financing, and in no case for a longer term than thirty (30) years from the date thereof.

[Editor's] Note—Section 5-2, 5-3, 5-4, 5-5, 5-6, 5-8, 5-12, 5-18, 5-19, 5-20, & 5-21 amended; Section 5-7 deleted and 5-24 changed to 5-10A by vote of citizens on August 2, 1983.

[Editor's] Note—Ord. No. 45-1993, § 4, 9-7-93.

[Editor's] Note—Amended by Ord. No. 56, 2007, § 2, adopted by vote of citizens on November 6, 2007.

Sec. 5-19. Special surplus and deficiency fund.

Where all outstanding bonds of a special or local improvement district have been paid and any monies remain to the credit of the district, they may be transferred to a special surplus and deficiency fund, and whenever there is a deficiency in any special or local improvement district fund to meet the payment of outstanding bonds, warrants or indebtedness and interest due thereon, the deficiency may be paid out of said surplus and deficiency fund. At the option of City Council, whenever a special or local improvement district has paid and cancelled three-fourths (3/4) of its bonds issued, and for any reason the remaining assessments are not paid in time to take up the remaining bonds of the district and interest due thereon, and there is not sufficient money in the special surplus and deficiency fund, then the City may pay the bonds, warrants or indebtedness when due and interest due thereon and reimburse itself by collecting the unpaid assessments due the district.

[Editor's] Note—Section 5-2, 5-3, 5-4, 5-5, 5-6, 5-8, 5-12, 5-18, 5-19, 5-20, & 5-21 amended; Section 5-7 deleted and 5-24 changed to 5-10A by vote of citizens on August 2, 1983.

[Editor's] Note—Ord. No. 45-1993, § 4, 9-7-93.

Sec. 5-20. Special or local improvement district bonds; general benefits.

In consideration of general benefits conferred on the City at-large from the construction or installation of improvements in special or local improvement districts, the City Council may levy annual taxes on the taxable property within the City, not exceeding two (2) mills in any one (1) year, to be disbursed, as determined by the City Council, for the purpose of paying for such benefits, for the payment of any assessments levied against the City itself in connection with bonds or warrants and for the purpose of advancing money to maintain current payments of interest and equal annual payments of the principal amount of bonds, or warrants issued or indebtedness incurred for any special or local improvement district hereafter created. The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified herein; provided, however, that in lieu of such tax levies, the City Council may annually transfer to such special fund any available money of the City, but in no

event shall the amount transferred in any one (1) year exceed the amount which would result from a tax levied in such year as herein limited. As long as any bonds or warrants issued or indebtedness incurred for special or local improvement districts hereafter organized remain outstanding, the tax levy or equivalent transfer of money to the special fund created for payment of said bonds or warrants issued or indebtedness incurred shall not be diminished in any succeeding year until all of said bonds or warrants issued or indebtedness incurred and the interest thereon shall be paid in full, unless other available funds are on hand therefor.

[Editor's] Note—Section 5-2, 5-3, 5-4, 5-5, 5-6, 5-8, 5-12, 5-18, 5-19, 5-20, & 5-21 amended; Section 5-7 deleted and 5-24 changed to 5-10A by vote of citizens on August 2, 1983.

Sec. 5-21. Limitation of actions.

No action or proceedings, at law or in equity, to review any elections, acts or proceedings, or to question the validity of or enjoin the issuance or payment of any securities issued in accordance with their terms, or the levy or collection of any assessments, or for any other relief against any acts or proceedings of the City done or had under this Part Four of Article V of this Charter, shall be maintained against the City, unless commenced within thirty (30) days after the election or performance of the act or final passage of the resolution or ordinance complained of, or else be thereafter perpetually barred.

[Editor's] Note— Section 5-2, 5-3, 5-4, 5-5, 5-6, 5-8, 5-12, 5-18, 5-19, 5-20, & 5-21 amended; Section 5-7 deleted and 5-24 changed to 5-10A by vote of citizens on August 2, 1983.

[Editor's] Note—Section 5-21, 5-23, 7-1, 15-1, 16-3, 16-4 & 16-5 amended by vote of citizens on November 5, 1985.

Sec. 5-22. Deferred payment on lease-purchase contracts.

The City Council shall be permitted to enter into installment or lease-purchase contracts in accordance with state and federal law except that no installment or lease-purchase contract shall exceed a period of twenty (20) years for equipment, public or capital improvements.

[Editor's] Note—Amended by Ord. No. 64-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 5-23. General bond provisions.

The City Council shall observe the following restrictive provisions in all issues of bonds by the Municipality:

a. The interest rate shall not exceed the market rate.

b. No bonds shall be issued at less than par value.

c. The sale of all bonds shall be based upon competitive bids, except that the City Council, after determining that the public interest will otherwise be better served, may authorize negotiated sale of bonds issued pursuant to the County and Municipality Development Revenue Bonds Act, as amended (C.R.S. 29-3-101 et seq.), or of refunding securities.

d. All bond issues shall contain a provision for redemption prior to maturity.

[Editor's] Note—Amended to increase allowable interest rate on City bonds from six (6) percent to market rate by vote of citizens on November 1, 1977.

[Editor's] Note—Section 5-21, 5-23, 7-1, 15-1, 16-3, 16-4 & 16-5 amended by vote of citizens on November 5, 1985.

ARTICLE VI. OFFICE OF THE CITY ATTORNEY

[Editor's] Note—Art. VI title and Sections 6-1 and 6-2 amended by vote of citizens on November 7, 1989, changing the name, and all references thereto, from the "Department of Law" to the "Office of the City Attorney."

Sec. 6-1. City Attorney; appointment; qualifications.

There shall be an Office of the City Attorney, the administrative head and Director of which shall be the City Attorney. The City Attorney shall be appointed by the City Council for an indefinite term, and the City Attorney's employment may be terminated by a majority vote of the entire Council. At the time of appointment the City Attorney need not be a resident of the City of Greeley, Colorado, but during tenure of the office, the City Attorney shall reside in the City of Greeley, Colorado. The City Attorney shall be a duly licensed attorney of the State of Colorado. The City Attorney shall receive such compensation as may be fixed by the Council.

[Editor's] Note—Art. VI title and Sections 6-1 and 6-2 amended by vote of citizens on November 7, 1989, changing the name, and all references thereto, from the "Department of Law" to the "Office of the City Attorney."

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

[Editor's] Note—Amended by Ord. No. 56, 2007, § 2, adopted by vote of citizens on November 6, 2007.

Sec. 6-2. Functions.

The Office of the City Attorney shall exercise all legal and administrative functions of the Municipal Government assigned by ordinance or general law to City Attorneys.

[Editor's] Note—Art. VI title and Sections 6-1 and 6-2 amended by vote of citizens on November 7, 1989, changing the name, and all references thereto, from the "Department of Law" to the "Office of the City Attorney."

Sec. 6-3. Institution of lawsuits.

When directed by Council, the City Attorney shall institute any suit, action, or proceeding on behalf of the Municipal Government or agency thereof. Unless directed by Council to the contrary, the City Attorney's Office shall defend any suit, action, or proceeding against the Municipal Government or agency, or employees thereof.

[Editor's] Note—Ord. No. 45-1993, § 4, 9-7-93.

Sec. 6-4. Notice of personal injuries.

Before the Municipal Government shall be liable for damages to a person injured on a street, avenue, alley, sidewalk, public place or way, the person so injured, or someone on the injured party's behalf, shall, within one hundred eighty (180) days after receiving the injuries, notify the City Clerk in writing, stating fully the time, place, circumstances and extent of injuries.

[Editor's] Note—Ord. No. 45-1993, § 4, 9-7-93.

Sec. 6-5. Reserved.

[Editor's] Note—Section 6-5, Assistant City Attorneys, repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993.

Sec. 6-6. Special counsel.

The Council may on its own motion or upon request of the City Attorney in special cases employ special counsel to serve under the jurisdiction of the City Attorney.

ARTICLE VII. MUNICIPAL COURT

Sec. 7-1. Municipal Court.

There shall be a Municipal Court vested with jurisdiction of all causes arising under the Charter and the ordinances of the City of Greeley, Colorado, which prescribes a specific penalty. The Judge or Judges of the Municipal Court shall be admitted to practice law in Colorado. At the time of appointment, the Judge or Judges of the Municipal Court need not be a resident of the City of Greeley, Colorado, but during tenure as Judge, the Judge or Judges shall reside within the City. The Judge or Judges shall be appointed by the Council for a term of four (4) years and may be removed by the Council for cause. The Judge or Judges shall receive such compensation as shall be fixed by the Council. In the Judge's or Judges' absence the Council shall designate an attorney to serve as Judge.

[Editor's] Note—Section 5-21, 5-23, 7-1, 15-1, 16-3, 16-4 & 16-5 amended by vote of citizens on November 5, 1985.

[Editor's] Note—Amended by vote of citizens on November 4, 1997; amended by Ord. No. 65-2001, § 2, adopted by vote of citizens on November 6, 2001.

Sec. 7-2. Powers.

Such Court may administer oaths; may punish contempt of Court by a fee not exceeding five hundred dollars ($500.00) or imprisonment not to exceed ninety (90) days or a combination of both fine and imprisonment within the designated limits, may enforce its process, orders and judgments, may issue search warrants as authorized by law, may summon and compel the attendance of jurors, may pass upon the competency of evidence, and may render final judgment on any forfeited bond or recognizance returnable to such court, subject to appeal as provided by law. The City Council may by ordinance provide for rules of procedure, sessions of court, trials by jury, method of

impaneling a jury, number of jurors, and all other necessary procedures, powers and duties.

[Editor's] Note—Section 7-2 of Art. III amended by vote of citizens on August 2, 1983.

ARTICLE VIII. ELECTION

Sec. 8-1. General provisions.

The City Council may, by one (1) or more appropriate City ordinances, provide for comprehensive election procedures for all City elections, including nomination of municipal officers, registration of voters, designation of election precincts, and/or polling places, appointment and compensation of election judges and clerks, voting by ballot or voting machines, form of ballot, rules for admitting votes, casting votes, counting and certification thereof, and all other matters as may be deemed necessary and proper and which may be consistent with other provisions of this Charter and in accordance with the Constitution of the State of Colorado.

[Editor's] Note—Amended by Ord. No. 66-2001, § 3, adopted by vote of citizens on November 6, 2001.

ARTICLE IX. INITIATIVE AND REFERENDUM

Sec. 9-1. Power of initiative.

The electors shall have power, known as the initiative, to propose any ordinance, except appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls.

Sec. 9-2. Submissions.

If the petition accompanying the proposed ordinance is signed by qualified electors equal in number to ten (10) percent of the total vote cast in the last general City election and requests that such proposed ordinance be submitted to a vote of the people, the Council shall either pass said ordinance within thirty (30) days without alterations, subject to the referendum, or place the proposed ordinance on the ballot of the next general City election. When a special election is requested by the petitioners, the petition must be signed by qualified electors equal in number to at least fifteen (15) percent of the total vote cast in the last general City election.

If a majority of the qualified electors voting thereon shall vote in favor, the same shall thereupon without further publication become an ordinance of the City.

Any number of proposed ordinances may be submitted at the same election. Not more than one (1) special election under this Article shall be held in any twelve (12) months. This limitation shall not apply to special elections during the same period held under other articles of this Charter, subject to the provisions of the State Constitution.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

[Editor's] Note—Amended by Ord. No. 37, 2009, § 2, adopted by vote of citizens on November 3, 2009.

Sec. 9-3. The referendum.

The referendum shall apply to all ordinances passed by the Council, except ordinances making the tax levy, making the annual appropriation, calling a special election, or ordering improvements initiated by petition and to be paid for by special assessments. If at any time within thirty (30) days after the final passage of an ordinance to which the referendum is applicable, a petition signed by qualified electors equal in number to at least ten (10) per centum of the total vote cast in the last general City election be presented to the Council, protesting against the going into effect of any ordinance, the same shall thereupon be suspended, and the Council shall reconsider such ordinance. If the same be not entirely repealed the Council shall submit the same to a vote of the qualified electors of the City, at a special election called therefor, unless a general or special election is to occur within ninety (90) days thereafter, in which event it shall be submitted at that election. Such ordinance shall then go into effect without further publication if a majority of the qualified electors voting thereon vote in favor thereof. The Council, of its own motion, shall have the power to submit at a general or special election any proposed ordinance to the vote of the people, in manner as in this Charter provided.

Sec. 9-4. Inconsistent ordinances.

If provisions of two (2) or more proposed ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall become effective.

Sec. 9-5. Procedure.

The procedure respecting initiative and referendum petitions shall be as provided in Article X relating to the recall with such modifications as the nature of the case requires.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 9-6. Prohibited action by council.

(A) No initiated ordinance adopted by the registered electors of the City may be substantively amended or repealed by the Council during a period of one (1) year after the date of the election on the initiated ordinance. At the conclusion of the initial one (1) year period following the adoption of an initiated ordinance, the ordinance may thereafter be amended or repealed with a two-thirds (⅔) vote of the entire Council and as set forth in Article III of this Charter.

(B) No referred ordinance repealed by the registered electors of the City may be readopted by the Council during a period of one (1) year after the date of the election on the referred ordinance. At the conclusion of the initial one (1) year period following the repeal of a referred ordinance, the ordinance may thereafter be reenacted with a two-thirds (⅔) vote of the entire Council and as set forth in Article III of this Charter.

[Editor's] Note—Section 9-6, Emergency Measures Subject to Referendum, repealed by Ord. No. 40-1993, § 4, adopted Sept. 7, 1993.

[Editor's] Note—Amended by Ord. No. 55, 2007, § 2, adopted by vote of citizens on November 6, 2007.

Sec. 9-7. Further ordinances.

The Council shall have power by this ordinance to make further regulations for carrying out the provisions of this Article.

ARTICLE X. RECALL

Sec. 10-1. Recall from office.

Every Elective City Officer of the City of Greeley, Colorado, may be recalled from office at any time after the Officer has held office for six (6) months, by the electors of the City of Greeley, by recall petition filed with the City Clerk, with signatures of qualified electors equal in number to twenty-five (25) per centum of the entire vote cast at the preceding general municipal election for all candidates for the position which the incumbent sought to be recalled occupies.

Such petitions shall contain a general statement of not more than two hundred (200) words, of the ground on which the recall is sought, and may be on one (1) or more sheets of paper. Each signer of such petition shall add to the signer's signature the date of signing, place of residence and street number. The person circulating such petitions shall subscribe to an oath on each such sheet of paper that the signatures thereon are genuine.

The procedure hereunder to effect the recall of an elective officer shall be, as far as applicable, by the method provided in Article XXI, and Section 4 thereof, of the Constitution of the State of Colorado, known as "Recall from Office," with power in the City Council to provide by ordinance such other and further procedure as it may deem expedient, not inconsistent herewith.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

ARTICLE XI. HUMAN RESOURCES AND CIVIL SERVICE

[Editor's] Note—Sections 11-1 through 11-7 added to Charter by vote of citizens on November 3, 1981.

[Editor's] Note—Sections 11-3(a)—(m) repealed and reenacted as Sections 14-4(a)—(m) by Ord. No. 40-1993, § 4, 9-7-93.

[Editor's] Note—Sections 11-8, 11-8(a—(k) repealed and reenacted as Sections 13-4, 13-4(a)—(k) by Ord. No. 40-1993, § 4, adopted Sept. 7, 1993.

[Editor's] Note—Art. XI title amended by vote of citizens on November 6, 2001, changing the name, and all references thereto, from the "Personnel and Civil Service" to "Human Resources and Civil Service."

Sec. 11-1. Department created.

The City Council shall create a Department of Human Resources under supervision of the City Manager, with such duties as may be assigned.

[Editor's] Note—Amended by Ord. No. 67-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 11-2. Reserved.

[Editor's] Note—Ord. No. 19, 2015, § 2, repealed Section 11-2, Powers, by vote of the citizens on November 3, 2015.

Sec. 11-3. Duties.

The City Council shall have authority to provide, by ordinance or resolution, the City employees' hours of employment, working conditions, vacations, sick leave, classification and salary schedules, group life insurance, hospitalization and medical care, workman's [worker's] compensation, and such other accepted personnel benefits as the Council finds is in the public interest, and the Council may contribute as part of the costs of employment all or a portion of the costs of such benefits.

Sec. 11-4. Reserved.

[Editor's] Note—Section 11-4, Accrued Retirement Benefits, repealed by Ord. No. 67-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 11-5. Civil service commission.

The City of Greeley Civil Service Commission is established, which shall consist of three (3) nonpaid members who are qualified electors of the City.

The members of said Commission shall be appointed by the City Council for a term of six (6) years with the terms to be staggered to provide for a new appointment or reappointment every two (2) years. Members may be removed during their term by the City Council, for cause, after a hearing.

a. The City Council shall provide, by ordinance, for a comprehensive Civil Service System for the Fire Department and Commissioned Personnel of the Police Department. The City Council may, by ordinance, place additional departments or classifications of employees under Civil Service. The Civil Service System shall be administered by the Civil Service Commission.

b. The classification of position of head of a department of the City of Greeley shall not be under Civil Service. Any Civil Service employee appointed to be head of a department shall revert to the department head's last prior Civil Service rank, grade or classification when appointment as head of a department is terminated. If a department head is dismissed for cause, the department head's former Civil Service rank shall not be restored unless so granted by the Civil Service Commission after a hearing.

[Editor's] Note—Amended by vote of citizens on November 4, 1997; amended by Ord. No. 67-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 11-6. Reserved.

[Editor's] Note—Section 11-6, Retirement, repealed by Ord. No. 67-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 11-7. Unclassified and classified service.

Employment in the City, exclusive of elected and appointed officials as provided for elsewhere in this Charter, shall be divided into Unclassified and Classified Service.

a. The Classified Service shall comprise all positions specifically included in Civil Service under Section 11-5(a).

b. The Unclassified Service shall comprise and consist of all employees not under Civil Service.

[Editor's] Note—Amended by Ord. No. 67-2001, § 3, adopted by vote of citizens on November 6, 2001.

ARTICLE XII. RESERVED

[Editor's] Note—Art. XII, Department of Health, deleted and reserved by vote of citizens on November 7, 1989.

ARTICLE XIII. DEPARTMENT OF FIRE

Sec. 13-1. Department of Fire.

There is hereby created a Department of Fire, the Director of which shall be the Fire Chief. The Department of Fire may be integrated by intergovernmental agreement, in a multi-jurisdictional Fire Authority or other legal entity to provide fire protection for its citizens. All intergovernmental agreements, and contracts with legal entities and/or fire districts of which the Department of Fire is a component, shall contain all the provisions of this Article XIII.

[Editor's] Note—Amended by Ord. No. 74-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 13-2. Fire Chief.

The Fire Chief shall be in direct command of the Department of Fire. The Chief shall assign all members of the Department to their respective posts, shifts, details and duties. The Chief shall make rules and regulations affecting the department, and in conformity with the ordinances and resolutions of the City, concerning the operation of the Department and conduct of all employees thereof. The Chief shall be responsible for the efficiency, discipline, and good conduct of the Department and for the care and custody of all property used by the Department. The Fire Chief shall report to the City Manager whether commanding a Fire Department, Fire Authority or other legal fire entity.

[Editor's] Note—Amended by vote of citizens on November 4, 1997; amended by Ord. No. 74-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 13-3. Functions of department.

The Department of Fire shall be responsible for the protection of life and property from fire, and enforcement of laws, ordinances and regulations relating to fire prevention and fire safety and such other related functions as to insure public safety.

FIREFIGHTERS; COLLECTIVE BARGAINING

[Editor's] Note—Sections 11-8, 11-8(a)—(k) repealed and reenacted as Sections 13-4, 13-4(a)—(k) by Ord. No. 40-1993, § 4, adopted Sept. 7, 1993.

Sec. 13-4. Statement of policy.

The protection of the public health, safety and welfare requires that the services of the members of the classified service of the Fire Department of the City continue unabated. This continuation of essential services can nevertheless be accomplished while establishing a harmonious working relationship between City officials and employees. Public services are enhanced by the involvement of employees involved in providing such services in making decisions that affect them and the level of service to the public.

Consistent with this, it is declared to be the public policy of the City to promote positive communication among City officials, employees and the public, in order to enhance the quality and level of services rendered to the public. In order to provide this communication, there is hereby provided a recognition of the right of employees to be involved in decision making concerning matters that affect them, a method for structuring communication between the parties and resolving issues that may surface during the process while nevertheless assuring the public of the continuation of necessary services.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 13-4(a). Definitions.

As used in this Amendment and its subparts, the following terms shall, unless the context requires a different interpretation, have the following meanings:

a. *Firefighters.* The term "firefighters" shall mean the members and positions of the classified service of the Fire Department of the City of Greeley, except the ranks of Chief and Division Chief. No rank may be added to the Fire Department except with the agreement of the bargaining agent, which agreement must include an express statement about whether the rank shall be included or excluded from the definition of firefighter contained herein.

b. *City.* The term "City" shall mean the City of Greeley, Colorado. It is recognized that the City acts through elected and appointed officials and employees or their designees. Where the context so requires, the term "City" shall mean the proper officials or employees of the City whose duty it is to establish the compensation, hours, working conditions and all other terms and conditions of employment of firefighters who include but are not limited to, the Chief of the Fire Department, the Director of Human Resources, the City Manager and the City Council.

c. *Bargaining Representative.* The term "bargaining representative" shall mean an employee organization chosen by the firefighters pursuant to Section 13-4(c) for the purpose of bargaining regarding the compensation, hours, working conditions grievance procedure, agency fee, and other terms and conditions of employment of firefighters.

d. *Final offer*. The term "final offer" shall mean the written offer made latest in time by a party but made not less than seven (7) days prior to the commencement of an advisory fact finding proceeding.

e. *Supervisory Functions.* The term "supervisory functions" shall refer to the responsibility to evaluate, discipline, assign, promote, demote, terminate, or the like, or to effectively recommend any of the foregoing with regard to other firefighters.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93; amended by Ord. No. 74-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 13-4(b). Right to bargain collectively.

a. *Right to Bargain and its Scope.* Firefighters shall have the right to bargain collectively with the City respecting compensation, hours, working conditions, grievance procedure, agency fee, and other terms and conditions of employment of firefighters. Firefighters shall have the right to be represented by an employee organization of their choosing in such collective bargaining. Collective bargaining is to be carried out consistent with the provisions of Charter Sections 13-4(d) through 13-4(i).

b. *Rights of Management.* While recognizing the legitimate rights of employees to be involved in decisions which affect them, the City nevertheless recognizes that on balance, certain decisions are more closely related to questions regarding the quality or level of service to the public rather than to conditions of employment. Accordingly, it is recognized that the employee's right to bargain collectively is limited and that the City may, but need not, negotiate over matters concerning the direction of the work of the firefighters; the decision to hire, promote, transfer, assign or retain firefighters, the decision to discipline, suspend or discharge firefighters for cause, the decision to lay off firefighters for lack of work or funds; provided, however, that procedures used to implement such decisions and the effects of such decisions are subject to negotiation; the maintenance of governmental efficiency; the methods and means by which firefighters are utilized to perform operations; provided, however, that minimum staffing on a piece of apparatus is negotiable; and the actions required to carry out the missions of the City.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 13-4(c). Selection and recognition of bargaining representatives.

a. *Bargaining Unit.* The bargaining unit shall consist of all firefighters unless the captains and lieutenants, as a group, do not vote to be included with the other firefighters as described in Section 13-4 paragraph (c).

b. *Majority Vote Election.* The sole and exclusive collective bargaining representative for the purpose of collective bargaining shall be determined by a majority of votes cast of the firefighters.

c. *Selection of Bargaining Representative.* When a question arises concerning the selection of a bargaining representative, the City Clerk shall determine the question thereof by taking a secret ballot of firefighters and certifying in writing the results thereof to the person, persons, employee organization(s) and City involved. Said secret ballot election shall be held not less than fifteen (15) nor more than thirty (30) days from the date of filing the petition. If the petition seeking representation requests that captains and lieutenants be included in the bargaining unit, the election shall be conducted as follows: The ballots of captains and lieutenants, as a group, shall be counted separately from the other firefighters. If both a majority of the captains and lieutenants, as a group, and a majority of the remaining firefighters vote to be represented by the organization seeking to be the bargaining representative,

then all firefighters shall be in the bargaining unit. If either group does not so vote, that group will not be represented. The City Clerk shall certify the results of the above described election within one (1) working day of the close of the polls.

d. *Questions Regarding Selection of Bargaining Representative.* Questions concerning the selection of a bargaining representative may be raised by petition of any firefighter, group of firefighters, or any employee organization representing or wishing to represent firefighters but only if such petition is signed by at least thirty-three (33) percent of the firefighters in the proposed bargaining unit. Such a petition may be submitted at any time to the City Clerk provided that in the event there is a bargaining representative then certified or recognized by the City, no petition may be filed until said certified or recognized bargaining representative has had a twelve (12)-month period in which to attempt to enter into a collective bargaining agreement with the City; and provided further that no petition may be filed during the term of an existing collective bargaining agreement, excepting the period from January 1 to January 31 of the fiscal year of such collective bargaining agreement.

e. *Duration of Recognition.* Recognition as provided in this section shall continue unless and until recognition of such bargaining representative is withdrawn by a vote of a majority of all firefighters. If the captains and lieutenants, as a group, seek to withdraw from the bargaining unit, such withdrawal must be approved by a vote of a majority of all firefighters.

f. *Voting Matters of Representation.* Any question concerning representations or withdrawal of representation subject to a vote as provided in this Section 13-4(c) must be approved by a majority of those eligible to vote.

g. *Recognition by City.* The City may recognize as a sole and exclusive bargaining representative any organization which presents to the City proof satisfactory to the City that a two-thirds (⅔) majority of the firefighters desire that organization to represent all of the firefighters for the purposes of collective bargaining. Such recognition is discretionary with the City and no proof of employee desire short of a secret ballot election conducted by the City Clerk shall compel recognition by the City. Nevertheless, if recognition is voluntarily granted, it may only be withdrawn by a vote as provided in Sections 13-4(c) paragraphs (d) and (e) hereof.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

[Editor's] Note—Amended by Ord. No. 56, 2007, § 2, adopted by vote of citizens on November 6, 2007.

Sec. 13-4(d). Bargaining obligation and procedure.

a. *Obligation of the City.* It shall be the obligation of the City to meet and confer in good faith with the bargaining representative at all reasonable times and places. This obligation shall include the duty to cause any agreements to be reduced to a written contract. A contract for a period in excess of one (1) year shall be fully enforceable during its term, notwithstanding any other provisions of this Charter or law to the contrary.

b. *Obligation of the Bargaining Representative.* It shall be the obligation of the bargaining representative to meet and negotiate in good faith with representatives of the City at all reasonable times and places. This obligation shall include the duty to cause any agreements to be reduced to a written contract.

c. *Time for Initiating Bargaining.* Whenever compensation, or any other matter requiring appropriation of money by the City are included as matters of collective bargaining under this Amendment, it is the obligation of the party initiating the negotiation to serve written notice of request for collective bargaining on the other no later than March 1 of the year before the contract period which will be the subject of the collective bargaining process.

d. *Waiver of Time Limitation.* The time limits for action, other than the time for notice and commencement of negotiations in this section and the time for conducting the election in Section 13-4(f) may be waived by mutual consent of the parties so long as any such waiver or extension does not violate applicable election law.

e. *Negotiation Process.*

1. *Initial Proposals.* Within thirty (30) days of the receipt by either party of a request to initiate negotiations, the parties shall meet to exchange information about the requested negotiations and identify the specific concerns or interests that they desire to address. Such initial proposals need not be lengthy but should serve to identify the nature of the concern prompting the request for negotiation. The parties will also identify deadlines for introducing new or additional topics to the negotiation. Topics for the negotiations

may be expanded at any time upon mutual agreement of the parties. The parties are encouraged to use the following procedure in negotiations.

2. *Initial Meeting.* Once initial proposals have been exchanged, each party should assure themselves that they understand the concerns and interests of the other party. Toward this end, the parties should review the initial proposals of the other with the view toward obtaining a complete understanding of the other party's concerns and presenting as much background information as is desired about their party's concerns.

3. *Identify Criteria for Evaluation.* The parties should identify and discuss criteria and standards for evaluating alternatives that may be available to address the topics or concerns identified in the initial step.

4. *Identify Options.* The parties should advance as many options for addressing the topics or concerns as may present themselves. It is understood that the discussion or presentation of an option for resolution in no way binds the party presenting the point to the specific option or alternative.

5. *Preferred Solutions.* The parties should identify the preferred options or alternatives available to the parties. If the parties are able to agree on a preferred solution, appropriate language embodying the concept can then be drafted and agreed upon.

6. *Facilitation Assistance.* It is recognized that from time to time, the negotiating teams of the parties may find it difficult to readily achieve agreement. Whenever it is deemed appropriate or beneficial to do so, the parties may engage the services of one (1) or more experts, consultants, facilitators or mediators as they may jointly agree may benefit the process of reaching agreement on one (1) or more item(s). It is specifically contemplated that the parties might engage individuals who have demonstrated knowledge or expertise in a given topic under discussion or skills and abilities in dispute resolution to serve as a facilitator, mediator or other assistant to promote the parties reaching a voluntary resolution. Fees and expenses of consultants and facilitators will be shared equally by the parties, unless otherwise agreed.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 13-4(e). Advisory fact finding.

a. *Unresolved Issues Submitted to Advisory Fact Finding*. In the event that the bargaining representative and the City are unable, within forty-five (45) days from and including the date of their first meeting, to reach an agreement on a contract, any and all unresolved issues shall be submitted to advisory fact finding. Submission of unresolved issues to advisory fact finding shall not cause the obligation of the parties to bargain in good faith to cease. Any or all issues which are unresolved between the bargaining representative and the City within the time periods contained in this paragraph may be agreed to by the parties at any time prior to the adoption by the City Council of a resolution to conduct a referendum vote of the people pursuant to Section 13-4(f). In the event the bargaining representative and the City are able to reach agreement upon any or all issues prior to the receipt of the recommendations of the advisory fact finder, then the fact finder shall make no recommendations on such issue or issues. In the event that following receipt of the recommendations of the advisory fact finder the bargaining representative and the City are able to reach an agreement upon any or all issues prior to the adoption by the City Council of a resolution to conduct a referendum vote, then those agreed upon issues shall not be submitted to said referendum vote.

b. *Advisory Fact Finder-Selection.* Within three (3) days from the expiration of the time period referred to in Section 13-4(e), paragraph (a) thereof, the bargaining representative or the City shall inform the American Arbitration Association, or its successor organization, that a fact finder is required. Within ten (10) days thereafter, the appropriate arbitration association shall simultaneously submit to each party an identical list of seven (7) persons as a proposed fact finder. It shall have been previously determined by the appropriate arbitration association that the proposed fact finder shall be available and will accept appointment as a fact finder and will perform responsibilities within the time period specified hereafter. Within seven (7) days from the mailings date of the list, the parties shall alternatively strike one (1) name from the list until one (1) person is selected. Nothing herein shall be construed to prevent the parties from mutually agreeing to any fact finder or to another third-party organization in lieu of the American Arbitration Association.

c. *Hearings.*

1. *Commencement.* The fact finder shall call a hearing to begin within twenty-one (21) days of selection, and shall give at least ten (10) days' notice in writing to the bargaining representative and the City of the time and place of such hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the fact finder shall be received in evidence. The fact finder shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses and the production of books, records and other evidence relating to or pertinent to the issues presented to it for determination.

2. *Conclusion.* The hearing conducted by the fact finder shall be concluded within seven (7) days of the time of commencement. Within five (5) days following the conclusion of the hearings, the parties may, if they deem necessary, submit written briefs to the fact finder. Within ten (10) days of receipt of such briefs, or within ten (10) days after the conclusion of the hearing if no post-hearing briefs are filed, the fact finder shall make written findings and recommendations on the issues presented, a copy of which shall be mailed or otherwise delivered to the bargaining representative and the City. Said written findings and recommendations shall be reached and discussed in accordance with the provisions of Section 13-4(e), paragraph (d).

d. *Factors to be Considered by the Fact Finder.* The fact finder shall conduct a hearing and render a decision upon the basis of a prompt, peaceful and just settlement of all unresolved issues between the bargaining representative and the City. The factors to be given weight by the fact finder in arriving at a decision shall include:

1. Comparison of compensation, hours, working conditions and terms and conditions of employment of the firefighters, compensation, hours, working conditions and terms and conditions of employment of Fire Departments agreed to be comparable by the bargaining representative and the City plus any comparable departments within the state as determined by the fact finder.

2. Interest and welfare of the public, and the financial ability of the City to finance the cost items proposed by each party.

3. Promotion of cooperative working relationships between the parties.

4. Articulated municipal compensation philosophies.

5. Municipal service standards and similar considerations.

6. Whether the parties have negotiated in good faith, including whether they have made reasonable efforts to comply with the suggested procedures set forth in Sections 13-4(d), paragraph (e), subparagraphs (2) through (6) herein.

7. Other similar standards recognized in the resolution of interest disputes.

e. *Final Offer Procedure.* The fact finder shall recommend either the final offer of the City or the final offer of the bargaining representative on each issue and shall state reasons for recommending such position.

f. *Fees and Expenses of Fact Finding.* One-half (½) of the necessary fees and necessary expenses of fact finding (excluding all fees and expenses incurred by either party in the presentation of its case) shall be borne by the City and one-half (½) shall be borne by the bargaining representative.

g. *Action on Recommendations.* The recommendations of the fact finder shall be advisory only. The City shall notify the bargaining representative whether it will implement the recommendations of the fact finder within ten (10) days of receipt of said recommendations. During this ten (10) day period the parties are encouraged to meet and further negotiate regarding any unresolved issues. The bargaining representative shall advise the City within five (5) days from receipt of the City's decision whether it will enter into a collective bargaining agreement containing the provisions recommended by the fact finder. Failure by either the City or the bargaining representative to so notify the opposite party within these time limits shall be deemed acceptance of the fact finder's recommendations by the nonresponding party.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 13-4(f). Election procedure for impasse resolution.

Right to Election. In the event the City or the bargaining representative is unwilling to enter into a collective bargaining agreement containing the recommendations of the fact finder, or is otherwise unwilling to enter into an agreement, the City shall cause the matter to be referred to a vote of the people. If the City rejects the recommendations of the fact finder, the City shall refer the unresolved issues to a vote of the people at the next special or general election legally permitted. In such event, the City shall pay the entire cost of the special election. If the bargaining representative rejects the recommendations of the fact finder, the unresolved issues shall be submitted to a vote at the next municipal, county or state general election. In such event, the bargaining representative shall pay its proportionate share of the election expenses which are related to resolving the bargaining impasse. If both the City and the bargaining representative reject the recommendations of the fact finder and cannot otherwise reach an agreement, the City shall place the matter before the voters at the next special or general election legally permitted. In such an event, the City shall pay half and the bargaining representative shall pay half for the cost of the election. In the event that issues unrelated to the proposals contemplated by this Amendment are also to be decided upon in any special election mandated by this amendment then the bargaining representative shall pay only its proportionate share of the election expenses which are related to resolving the bargaining impasse. The cost of any prorating under this section shall be on the basis of the number of matters (issues or offices) included on the ballot with the impasse issues collectively considered one (1) matter.

Ballot Contents. The ballot for any election conducted pursuant to this section shall contain the last offer of the City and the bargaining representative on issues remaining unresolved as of the date the ballot is determined, provided that either party may adopt the position of the fact finder on all unresolved issues in total as its own. In the event a party adopts the position of the fact finder that position shall be listed first on the ballot. In all other cases, the ballot position shall be determined by the flip of a coin. The selection receiving the most votes shall be enacted and implemented by the City and bargaining representative.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 13-4(g). Collective bargaining agreement--what constitutes.

The collective bargaining agreement between the City and the bargaining representative shall consist of any and all terms actually agreed to by the parties or accepted by the parties from the recommendations of the fact finder or selected by the electorate pursuant to this Amendment. At the request of either the bargaining representative or the City, the collective bargaining agreement shall contain a grievance procedure for contract interpretation disputes which culminates in final and binding arbitration by a neutral arbitrator.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 13-4(h). Modification of benefits.

Provisions of Charter, ordinances, personnel policy or procedure or state statute governing the wages, hours and working conditions of firefighters shall remain in full force and effect until such time as these provisions are modified by the terms of a collective bargaining agreement entered into pursuant to the requirements and provisions of this Charter, provided that no person who is either receiving or has contributed monies toward a firefighter pension shall cease in any manner to be eligible for the full pension which was provided by Charter, ordinance, statute or court order on the date of the adoption of this Charter amendment unless the person voluntarily withdraws from the same.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 13-4(i). Prohibition.

a. *No Strikes.* Protection of the public health, safety and welfare demands that neither the bargaining representative nor the firefighters nor any person acting in concert with them will cause, sanction, promote, or take part in any strike, walkout, sit-down, slowdown, stoppage of work, abnormal absenteeism, or withholding of services. Therefore, all such actions are expressly prohibited.

b. *Improper Actions.* It shall be unlawful for the bargaining representative to, in any way, discipline a member for performance of supervisory functions or management rights as set forth in Section 13-4(b), paragraph (b) hereof.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 13-4(j). Impact on Civil Service commission.

Firefighters shall retain their coverage under the Civil Service system set forth in Section 11-5 of this Charter, except as modified in this section or by a collective bargaining agreement. Wherever there is a conflict between the terms of a collective bargaining agreement and a rule of the Civil Service Commission or the City, the provisions of the collective bargaining agreement shall prevail.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 13-4(k). Severability.

If any clause, sentence, paragraph, or part of this Amendment or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Amendment or its application.

[Editor's] Note—Resolution No. 20, 7-16-91.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

ARTICLE XIV. DEPARTMENT OF POLICE

Sec. 14-1. Department of Police.

There is hereby created a Department of Police, the Director of which shall be the Chief of Police.

Sec. 14-2. Chief of Police.

The Chief of Police shall be in direct command of the Department of Police. The Chief shall assign all members of the Department to their respective posts, shifts, details and duties. The Chief shall make rules and regulations affecting the department, and in conformity with the ordinances and resolutions of the City, concerning the operation of the Department and conduct of all employees. The Chief shall be responsible for the efficiency, discipline, and good conduct of the Department and for the care and custody of all property used by the Department.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 14-3. Functions of the department.

The Department of Police shall be responsible for the preservation of public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property and the enforcement of the laws of the State, and the ordinances of the City as provided by this Charter and all rules and regulations made in accordance therewith, and such other functions as the City Manager and City Council may prescribe for public safety. All members of the Department shall have all powers with respect to the service of criminal process and the enforcement of criminal laws as are vested in police officers.

POLICE DEPARTMENT; COLLECTIVE BARGAINING

[Editor's] Note—Sections 11-3(a)—(m) repealed and reenacted as Sections 14-4(a)—(m) by Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(a). Police Department; collective bargaining, declaration of policy.

It is the public policy of the people of the City of Greeley to promote harmonious, peaceful and cooperative relationships between the elected officials, the City management and the Police Department management of the City and certain members of the civil service of the Police Department and to protect the public by ensuring, at all times, responsible, orderly, and uninterrupted operation of government services, by providing for such employees the right to bargain collectively with the employer through an exclusive agent, and establishing a method of resolving impasses, as hereinafter provided.

It is hereby further declared to be the public policy of the City of Greeley to accord to such members of the civil service of the Police Department, the rights of labor such as the right to organize, be represented by an employee organization of their choice, and the right to bargain collectively concerning wages, rates of pay, grievance procedure, and other terms and conditions of employment. These rights shall not include any right to strike, engage in or organize any work stoppage, slow down, sick in or mass absenteeism. To provide for the exercise of these rights, a method of resolving impasses by means of advisory fact-finding and referring to special municipal elections, issues not resolved in negotiations for a collective bargaining agreement is hereby established.

The establishment of this method of resolving such impasses shall be deemed to be a recognition of the necessity to provide an alternative mode of settling disputes where employees such as police officers, as a matter of public policy, must be denied the right to strike.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(b). Definitions.

As used in this Section and its subparts, the following terms shall, unless the context requires a different interpretation, have the following meanings:

a. The term "police officer" shall mean the members of the civil service of the Police Department of the City of Greeley except: any person holding the rank of sergeant or above, including sergeants, lieutenants, captains and the Chief of the Department and any other position created with the rank equivalent of sergeant or above after the adoption of this Article.

b. The term "corporate authorities" shall mean the proper officials within the City of Greeley whose duty it is to establish the wages, salaries, rate of pay, hours, working conditions, and other terms and conditions of employment of the Police Department.

c. The term "advisory fact-finding" means investigation of unresolved disputes arising out of the negotiation of a collective bargaining agreement, submitting a report defining the unresolved issues, analyzing and reporting the facts relating thereto, and making nonbinding recommendations for the purpose of resolving the issues in dispute.

d. The term "impasse" means a situation when the employer and the sole and exclusive agent of the police officers have reached a point in negotiation over the provisions to be included in a collective bargaining agreement at which time their differences are so substantial that further meetings would be futile, and the time provided for collective bargaining has elapsed.

e. The term "final offer" means the written offer made latest in time by a party authorized to make such offer in negotiation of a collective bargaining agreement prior to the time provided for collective bargaining has elapsed and provided that said offer is made not less than seven (7) days prior to the start of an advisory fact-finding hearing.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(c). Right to organize and bargain collectively.

Police officers shall have the right to bargain collectively with the City of Greeley and to be represented by an employee organization in collective bargaining on matters such as wages, hours and other terms and conditions of employment, except that the direction of the work of employees, the hiring, promotion, transfer, assignment and retention of employees, the suspension or discharge of employees for cause, the maintenance of governmental efficiency, the layoff of employees for lack of work or funds, the method and means by which personnel are utilized to perform usual and customary operations, the actions required to carry out the mission of the City in emergencies, and any other traditional management rights shall not be subject for collective bargaining in the City of Greeley.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(d). Recognition of bargaining agent; police officers.

The employee organization selected by a majority of the police officers voting in an election in the City of Greeley shall be recognized by the City of Greeley as the sole and exclusive agent for all police officers unless and until representation by such an employee organization is withdrawn by a vote of the majority of the police officers voting in an election. The employee organization representing the police officers on January 1, 1982, shall be recognized by the City of Greeley as the sole and exclusive agent for all police officers unless and until representation is withdrawn as provided herein. An election held for the purpose of selecting or removing the sole and exclusive agent for police officers shall be conducted pursuant to ordinances of the City of Greeley and the cost of such election shall be borne by the employee organization or organizations standing for election.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(e). Obligation to bargain.

It shall be the mutual obligation of the City of Greeley, acting through its corporate authorities or their representatives, and of representatives of the sole and exclusive agent for the police officers to meet and confer in good faith within thirty (30) days after receipt of written notice by the corporate authorities from said agent of a request for a meeting for collective bargaining purposes. This obligation shall include the duty to cause any agreements resulting from negotiations to be reduced to a written contract provided that any such contract shall be for a term of not less than one (1) year nor more than three (3) years, notwithstanding any other Article of this Charter relating to finance and taxation. All collective bargaining agreements shall be effective on a January 1 date and shall terminate on a December 31 date.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(f). Unresolved issues submitted to advisory fact-finding.

If an impasse occurs after thirty (30) days have elapsed, from and including the date of the first collective bargaining meeting between representatives of the sole and exclusive agent of the police officers and the corporate authorities, any and all unresolved issues shall be submitted to advisory fact-finding.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(g). Selection of advisory factfinder.

Within three (3) days after the expiration of the thirty (30)-day time period referred to at [in] Section 14-4(f) hereof, the sole and exclusive agent of the police officers and the corporate authorities shall mutually agree and select a person to serve as advisory factfinder for the parties. In the event they are unable to agree upon a factfinder, the sole and exclusive agent of the police officers or the corporate authorities shall inform the Federal Mediation and Conciliation Service, or its successor organization, or a similar organization agreed upon by both parties, that an advisory factfinder is required. Within ten (10) days thereafter said association or organization shall submit simultaneously to each party an identical list of five (5) persons. Within seven (7) days from the mailing date of the list, each party shall cross off two (2) names from the list and shall number the remaining names indicating the order of its preference and return the list to said association or organization. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. Within ten (10) days after the time the list must be returned by the parties, said association or organization shall do the following:

(1) From among the persons who have been approved on both lists, it shall appoint one (1) advisory factfinder to serve.

(2) It shall notify the parties of such appointment.

The cost of the advisory fact-finding shall be borne equally by the City and the sole and exclusive agent of the police officers.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(h). Hearings.

a. The advisory factfinder shall call a hearing to be held within twenty-one (21) days after the date of appointment and shall give not less than ten (10) days' notice in writing to the sole and exclusive agent of the police officers and the corporate authorities of the time and place of such hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the advisory factfinder shall be received in evidence. The advisory factfinder shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses and the production of books, records and other evidence relating to or pertinent to the issues presented for determination.

b. The hearings conducted by the advisory factfinder shall be concluded within fourteen (14) days from the time of commencement. Within five (5) days following the conclusion of the hearings, the parties may, if they deem necessary, and have so notified the advisory factfinder at the conclusion of the hearings, submit written briefs to the advisory factfinder. Within ten (10) days after the conclusion of the hearings if no post-hearing briefs are filed, the advisory fact-finder shall make written findings and a written opinion and decision of the issues presented, a copy of which shall be mailed or otherwise delivered to the sole and exclusive agent of the police officers and its designated representative and the corporate authorities. Said written findings, opinion and decision, and recommendations shall be reached and discussed in accordance with the provisions of subparagraph (c) of this

Section 14-4(h).

c. The advisory factfinder shall conduct the hearings and render the decision upon the basis of a prompt, peaceful and just settlement of all unresolved issues between the sole and exclusive agent of the police officers and the corporate authorities. The factors to be given weight by the advisory factfinder in arriving at a decision shall include:

1. Comparison of wage rates, hours, terms and conditions of employment of the police officers, with wage rates, hours, terms and conditions of employment of police officers in comparable cities and towns in Colorado.
2. Interest and welfare of the public, and the financial ability of the City to finance the cost items proposed by each party.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(i). Unresolved issues submitted at special election.

Upon the request of the employer or the sole and exclusive agent of the police officers, after receipt of the advisory fact-finder's report, and after the employer and the sole and exclusive agent of the police officers have had five (5) days to further negotiate the disputed issues, the final offers of the employer and of the sole and exclusive agent of the police officers on the issues remaining unresolved shall each be submitted as alternative single measures to a vote of the qualified electors of the City of Greeley at the next special or general election legally permitted. The qualified electors shall select either the final offer of the employer or the final offer of the sole and exclusive agent of the police officers, as presented to the advisory factfinder. Issues agreed to during the five-day period shall not be included in the final offer of the employer or of the sole and exclusive agent of the police officers. The cost of such special election shall be borne by either the employer or the sole and exclusive agent of the police officers, whichever refuses to accept the recommendations of the advisory factfinder. If both refuse, the cost shall be borne equally by the employer and the sole and exclusive agent of the police officers.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(j). Strikes.

The protection of the public health, safety and welfare demands that neither the sole and exclusive agent of the police officers, nor the police officers, nor any person acting in concert with them, will cause, sanction, or take part in any strike, walkout, sit-down, slowdown, stoppage of work, picketing, retarding of work, abnormal absenteeism, withholding of services, or any other interference with the normal work routine.

Violation of any provision of this section by the sole and exclusive agent of the police officers shall be cause for the City of Greeley to terminate a collective bargaining agreement with said agent upon giving written notice to that effect to the chief representative of said agent, in addition to whatever other remedies may be available to the City of Greeley at law or in equity.

Violation of any provision of this section by any police officer shall be just cause for the immediate dismissal of said police officer, in addition to whatever other remedies may be available to the City of Greeley at law or in equity. No police officer shall receive any portion of his/her salary while engaging in activity in violation of this section.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(k). Collective bargaining agreement; what constitutes.

Any agreement actually negotiated between the sole and exclusive agent of the police officers and the corporate authorities shall constitute the collective bargaining contract governing the police officers and the City of Greeley for the period stated herein. Any collective bargaining agreement negotiated under the terms and provisions of Section 14-4 hereof and its subsections shall specifically provide that the police officers who are subject to its terms shall have no right to engage in any work stoppage, slowdown, mass absenteeism, or strike, the consideration for such provision being the right to a resolution of disputed question as provided herein.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(l). Duty to meet and bargain collectively.

Whenever an employee organization has been certified pursuant to the provision of this Section 14-4 as the sole and exclusive agent of the police officers, such employee organization and the employer shall meet at reasonable times and bargain collectively in good faith. Written notice of the intent of the sole and exclusive agent of the police officers to bargain must be received by the employer no later than March 1 of the year preceding the year in which a contract is to become effective. Any collective bargaining agreement reached shall be reduced to writing and shall become effective only after ratification of the agreement by enactment of ordinance and ratification by the membership of the employee organization. The obligations of this Subsection 14-4(l) shall not compel either party to agree to a proposal or to make a concession. Multi-year collective bargaining contracts shall be fully enforceable notwithstanding any other provisions of this Charter. Further, upon a showing that all administrative remedies have been exhausted, the provisions of collective bar gaining agreements shall be enforceable in a court of competent jurisdiction in accordance with Colorado Rules of Civil Procedure as they pertain to review of administrative actions.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

Sec. 14-4(m). Police department; who shall compose.

The Police Department shall be composed of a Chief of the Police Department appointed by the City Manager and such other subordinate command and supervisory ranks and police officers appointed pursuant to Civil Service requirements as may be necessary in a police capacity for the public safety of the City of Greeley.

[Editor's] Note—Ord. No. 40-1993, § 4, 9-7-93.

ARTICLE XV. PUBLIC WORKS

[Editor's] Note—Art. XV repealed and reenacted by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993. Section 15-2, Function, repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993. Section 15-3, Powers and Duties, repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993.

Sec. 15-1. Functions and operations.

The City Council shall by ordinance provide for the functions and operations of general municipal public works, including, but not limited to, providing all engineering, architectural, maintenance, construction and work equipment services required to be performed by the City, except those performed by private persons, firms, or corporations under contract, or those functions assigned elsewhere in this Charter.

[Editor's] Note—Parks Division removed from Public Works Department by vote of citizens to amend Charter on November 6, 1973.

[Editor's] Note—Article added to Charter by vote of citizens on November 6, 1973.

[Editor's] Note—Section 5-21, 5-23, 7-1, 15-1, 16-3, 16-4 & 16-5 amended by vote of citizens on November 5, 1985.

[Editor's] Note—Section 5-1, Department Created, repealed and reenacted as "Functions and Operations" by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993.

ARTICLE XVI. CULTURE

[Editor's] Note—Art. XVI, "Department of Culture and Human Resources," repealed and reenacted as "Culture and Human Resources" by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993. Section 16-2, Functions, repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993. Section 16-3, Appointment of Library Board, previously amended by vote of citizens on Nov. 5, 1985, repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993. Section 16-4, Library Housing, previously amended by vote of citizens on Nov. 5, 1985, repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993. Section 16-5, Division of Museum Created, previously amended by vote of citizens on Nov. 5, 1985 and on Nov. 7, 1989, repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993.

[Editor's] Note—Amended by Ord. No. 19, 2015, § 1, adopted by vote of citizens on November 3, 2015.

Sec. 16-1. Functions and operations.

The City Council shall by ordinance provide for museums and such other cultural activities which are appropriate for the general welfare of the City of Greeley, including, but not limited to, conducting programs and activities designed to preserve and improve community and self understanding and quality of life.

[Editor's] Note—Human Resources added to Department of Culture by vote of citizens to amend Charter on November 6,

1973.

[Editor's] Note—Section 16-1, Department Created, repealed and reenacted as "Functions and Operations" by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993.

ARTICLE XVI-A. PARKS AND RECREATION

[Editor's] Note—Article added to Charter by vote of citizens on November 6, 1973.

[Editor's] Note—Art. XVI-A title, Department of Parks and Recreation, changed to "Parks and Recreation" by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993. Section 16A-2, Functions of the Department, repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993. Section 16A-3, Powers and Duties, repealed by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993.

Sec. 16a-1. Functions and operations.

The City Council shall by ordinance, organize various functions and operations of the City for development, acquisition, planning, operation, and maintenance of parks, and for the creation, development, acquisition, and operation of all forms of recreational programs and facilities as are appropriate for the general welfare of the City of Greeley.

[Editor's] Note—Section 16A-1, Department Created, amended and retitled "Functions and Operations" by Ord. No. 45-1993, § 4, adopted Sept. 7, 1993.

ARTICLE XVII. WATER AND SEWER

[Editor's] Note—Sections 17-1 to 17-10, amended and Section 17-11 added to Charter by vote of citizens on November 6, 1973.

[Editor's] Note—Section 17-9, Water and Sewer Board, Other Duties, repealed by Ord. No. 44-1993, § 4, adopted Sept. 7, 1993. Section 17-10, Water and Sewer Board, Annual Written Report, repealed by Ord. No. 44-1993, § 4, adopted Sept. 7, 1993. Section 17-11, Water and Sewer Board, Leasing of Water, repealed by Ord. No. 44-1993, § 4, adopted Sept. 7, 1993.

Sec. 17-1. Water and sewer.

The Water and Sewer Board is authorized to qualify the Water and Sewer functions and operations as an "enterprise," as that term is contained in article X, section 20 of the Colorado Constitution, and to provide for every function and operation of an enterprise, including, but not limited to, bond issuance and all other necessary and ordinary functions of the Water and Sewer operations, as that term is defined in this Charter and within the definition of the enterprise ordinance.

[Editor's] Note—Section 17-1, Water and Sewer Department, amended and retitled "Water and Sewer" by Ord. No. 43-1993, § 3, adopted Sept. 7, 1993.

Sec. 17-2. Functions of the department.

The Water and Sewer Department shall, through its Director, be responsible for the operation and maintenance of the entire water system and sanitary sewer system of the City of Greeley. The Director of the Water and Sewer Department shall also be responsible for the care and custody of the property used by the Department.

Sec. 17-3. Water and Sewer Board, organization.

There shall be a Water and Sewer Board which shall consist of ten (10) members. The Mayor, City Manager and Director of Finance shall be nonvoting members of said Board. There shall be seven (7) members appointed by the City Council for terms of five (5) years. Any vacancy shall be filled for the unexpired term of any member whose place has become vacant. The Board shall annually elect one (1) of the appointive members as chair, and one (1) as vice chair. The City Manager shall serve as secretary to the Water and Sewer Board.

a. *Public Meetings.* A majority of the membership of the entire Board shall constitute a quorum to do business. A meeting is defined as a pre-arranged meeting, other than social functions, of three (3) or more members of the Board where public business is discussed.

   The Board shall prescribe the time and place of its meetings at an hour to be fixed from time to time by the rules and procedures of each Board; and the Board shall have power by resolution to prescribe the manner of calling meetings thereof. The Board shall keep records of all public meetings, which records shall become a public record.

b. *Executive Sessions.* Executive sessions shall only be held as provided by ordinance.

[Editor's] Note—Section 17-3 amended by vote of citizens on November 7, 1989, increasing the size of the Water and Sewer Board from five (5) to seven (7) appointed members and deleting the clause allowing members to be removed by Council for cause after a public hearing.

[Editor's] Note—Ord. No. 44-1993, § 4, 9-7-93; amended by Ord. No. 62-2001, § 3, adopted by vote of citizens on November 6, 2001.

Sec. 17-4. Water and Sewer Board, powers or duties.

The Water and Sewer Board shall have the power and shall be required to:

a. Annually establish minimum water rates, which need not be uniform for all classes of users; the minimum rates must be sufficient to include all expenditures for the following:

1. All operation and maintenance of the water system;

2. All debt service requirements;

3. Additions to a reserve account in sufficient amounts to offset depreciation to the water system. Said reserve shall be based on accepted principles of accounting for a water system.

b. Annually establish minimum sanitary sewer service rates, which need not be uniform for all classes of users; the minimum rates must be sufficient to include all expenditures for the following:

1. All operation and maintenance of the sanitary sewer system;

2. All debt service requirements;

3. Additions to a reserve account in sufficient amounts, to offset depreciation to the sanitary sewer system. Said reserve shall be based on accepted principles of accounting for a sanitary sewer system.

c. Acquire, develop, convey, lease and protect water and sewer assets, supplies and facilities. The Water and Sewer Board shall have power to lease water not needed by the City for immediate use, as herein provided. Any sale or exchange of water, water and sewer facilities or land shall be approved by the City Council. However, no rights shall become vested by franchise or lease or under a continued leasing or under a continuance of the conditions concerning any return flow arising therefrom, so as to defeat or impair the right to terminate the leases or franchises or change the place of use.

[Editor's] Note—Ord. No. 44-1993, § 4, 9-7-93.

Sec. 17-5. Allocation of water and sewer revenues.

All funds received from the water rates shall be used only for the operation, maintenance, replacement of and additions to the water system, including the acquisition of water rights. All funds received from the sewer rates shall be used only for the operation, maintenance and replacement and additions to the sanitary sewer system.

Sec. 17-6. Limitations on City Council.

The City Council is hereby prohibited from lowering the minimum water rates and the minimum sanitary sewer rates established by the Water and Sewer Board.

Sec. 17-7. Water and Sewer Board, annual budget and advisory duties.

The Water and Sewer Board shall recommend to the City Manager a separate annual budget for water and sanitary sewer. The Water and Sewer Board shall also submit long range plans to the City Council for water and sanitary sewer improvements; said long range plans shall include the ensuing five (5) years and may also include longer periods.

[Editor's] Note—Ord. No. 44-1993, § 4, 9-7-93.

Sec. 17-8. Water and Sewer Board, employment of technical assistants.

The Water and Sewer Board shall have the power within its budget appropriation to direct the City Manager to contract with individuals or firms of the Board's choosing for engineering, legal, and other professional consulting services. Persons or firms providing such special consulting services may be employed on an annual retainer basis

or otherwise.

ARTICLE XVIII. FRANCHISES AND PUBLIC UTILITIES

Sec. 18-1. Definition.

The term Public Utility or Public Utility Corporation, when used in this Charter, shall mean any person, firm, corporation or other legal entity operating gas or electric systems, telecommunication systems, water or sewer systems, heating or cooling plants or transportation systems, or cable television systems serving or supplying the public. It shall not include any person, firm, corporation or other legal entity owning or operating private telephone lines and shall not include the Water and Sewer Department.

[Editor's] Note—Amended by Ord. No. 68-2001, § 2, adopted by vote of citizens on November 6, 2001.

Sec. 18-2. Reserved.

[Editor's] Note—Ord. No. 19, 2015, § 2, repealed Section 18-2, Present Franchises, by vote of the citizens on November 3, 2015.

Sec. 18-3. Franchises granted by City Council.

Franchises shall be granted by a majority vote of the entire Council. Such approval shall be by ordinance.

[Editor's] Note—Section 1-2, 1-7 & 1-9 of Art. I, and Section 18-3 of Art. XVIII amended by vote of citizens on August 2, 1983.

[Editor's] Note—Amended by Ord. No. 66-2001, § 3, adopted by vote of citizens on November 6, 2001.

[Editor's] Note—Amended by Ord. No. 56, 2007, § 2, adopted by vote of citizens on November 6, 2007.

Sec. 18-4. Term; compensation; restriction.

No franchise shall be granted for a longer period than twenty-five (25) years, nor without reserving to the City such fair percentage of the gross receipts arising from the use thereof within the boundaries of the City as shall be fixed in the grant of said franchise. This compensation shall not exempt the grantee or assignees from any lawful taxation upon the grantee's or assignees' property, but shall exempt the grantee or assignees from the payment of any licenses, charges or any other impositions levied by the City. The percentage of gross receipts shall be paid annually and a failure to pay such percentage shall work a forfeiture of the franchise.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

Sec. 18-5. Extension of territory.

The Council may extend the area or include streets, alleys, public places and property, not embraced in such franchise, by ordinance, to include future boundaries of the City when the growth of the City and necessity require, subject to all of the terms and conditions of such original franchise and coextensive with the term thereof, without a vote of the electors.

Sec. 18-6. Reserved.

[Editor's] Note—Ord. No. 19, 2015, § 2, repealed Section 18-6, Elevate or Lower Tracks, by vote of the citizens on November 3, 2015.

Sec. 18-7. Reserved.

[Editor's] Note—Ord. No. 19, 2015, § 2, repealed Section 18-7, Provide for Safety, by vote of the citizens on November 3, 2015.

Sec. 18-8. Reserved.

[Editor's] Note—Ord. No. 19, 2015, § 2, repealed Section 18-8, Revocable Licenses, by vote of the citizens on November 3, 2015.

Sec. 18-9. Reserved.

[Editor's] Note—Ord. No. 30,2017, § 2.C, repealed Section 18-9, Revocable Permits, by vote of the citizens on November 7, 2017.

Sec. 18-10. Books of Record.

The Council shall cause to be kept in the office of the City Clerk an indexed franchise record in which shall be transcribed copies of all public utility franchises heretofore and hereafter granted. The index shall give the name of the grantee and assignees. The Record shall be a complete history of all such franchises and, shall include a comprehensive and convenient reference to all action at law affecting the same, and copies of all annual and inspection reports and such other matters of information and public interest as the Council may from time to time require.

[Editor's] Note—Amended by vote of citizens on November 4, 1997.

ARTICLE XIX. PLANNING, ZONING AND HOUSING

[Editor's] Note—Article repealed and reenacted by vote of citizens on November 4, 1997.

Sec. 19-1. Planning.

Consistent with all federal and state law with respect to land use and development and in conformance with all applicable articles in its Charter, the City Council shall:

a. Designate a City department or other agency to carry out the planning, zoning and housing functions as set forth in ordinances.

b. Maintain a planning commission of seven (7) members appointed to terms of three (3) years to advise the City Council on land use planning and to make decisions on land use matters as they may be set forth by ordinance.

c. Adopt a comprehensive plan as a guide to land use and development.

d. Adopt all development codes.

e. Establish a process for handling variance applications and appeals of land use decisions or actions.

[Editor's] Note—Amended by Ord. No. 30,2017, § 2.D, adopted by vote of citizens on November 7, 2017.

Sec. 19-2. Powers of City Council in slum clearance and rehabilitation of blighted areas.

The City Council may adopt, modify and carry out plans proposed by the Planning Commission for clearance of slum districts and rehabilitation of blighted areas within the City and, for the accomplishment of this purpose, may acquire by purchase or condemnation all privately owned land, buildings, and other real property interests within the district; may establish, locate, relocate, build and improve the streets and other public open spaces provided for in the plan; may maintain, operate, lease or sell said buildings or any of them; may sell the land, or any part thereof, designated for buildings and private open spaces upon such terms and conditions and subject to such restrictions as to building uses and open spaces as will substantially carry out and effect the plan.

Sec. 19-3. Housing.

The City Council may provide, by ordinance, for safe and sanitary housing accommodations for families of low income and for such purpose may prepare plans for housing projects, authorize the construction, reconstruction, alteration or repair of any housing project or part thereof and maintain any housing constructed or acquired by the City. All property both real and personal acquired, owned, leased, rented or operated for housing projects shall be deemed public property for public use, and the providing of safe and sanitary housing for families of low income is hereby declared to be a public use and public purpose.

ARTICLE XX. RESERVED

[Editor's] Note—Ord. No. 19, 2015, § 2, repealed Article XX, Sections 20-1—20-3, Local Option Malt, Vinous, Spirituous Liquors, by vote of the citizens on November 3, 2015.

ARTICLE XXI. RESERVED

[Editor's] Note—Ord. No. 19, 2015, § 2, repealed Article XXI, Sections 21-1—21-11, Transitional Provisions, by vote of the citizens on November 3, 2015.

PART II
CODE OF ORDINANCES

Title 1

GENERAL PROVISIONS

CHAPTER 1. IN GENERAL

~~**1.01.010. Adoption.**~~

~~Pursuant to the provisions of section 3-20 of the Charter of the city of Greeley and sections 31-16-201 through 31-16-208 of the Colorado Revised Statutes, as amended, there is adopted the *Greeley Municipal* Code *(Greeley* Code *of Ordinances)* as published by Colorado Code Publishing Company, Fort Collins, Colorado~~

~~(Code 1994, § 1.01.010; Ord. 56, 1994, § 1; Ord. 22, 1982 §1)~~

Sec. 1-1. Title; citation; reference.

The ordinances embraced in the following titles and sections shall constitute and be designated ~~This Code shall be known as~~ the Greeley Municipal Code or the Greeley Code of Ordinances and it shall be sufficient to refer to the Code as either the Greeley Municipal Code or the Greeley Code of Ordinances in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any portion thereof as an addition to, amendment to, correction or repeal of the Greeley Municipal Code or the Greeley Code of Ordinances. Further reference may be had to the titles, chapters, sections and subsections of the Greeley Municipal Code or the Greeley Code of Ordinances and such references shall apply to that numbered title, chapter, section or subsection as it appears in the Code.

(Code 1994, § 1.01.020; Ord. No. 22, 1982, § 2, 5-4-1982)

~~**Sec. 1.01.030. Ordinances passed prior to adoption of code.**~~

~~The last ordinance included in the original Code is Ordinance 60, 1980, passed July 1, 1980. The following ordinances, passed subsequent to Ordinance 60, 1980, but prior to the adoption of this Code, are adopted and made a part of this Code: Ordinances 61, 1980, passed July 15, 1980, through and including Ordinance 20, 1982, passed April 20, 1982.~~

~~(Code 1994, § 1.01.030; Ord. 22, 1982 §3)~~

Sec. 1-2. Codification authority.

This Code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the city, codified pursuant to the provisions of sections 31-16-201 through 31-16-208 of the Colorado Revised Statutes (C.R.S. §§ 31-16-201 through 31-16-208).

(Code 1994, § 1.01.040; Ord. No. 22, 1982, § 4, 5-4-1982)

Sec. 1-3. Reference applies to all amendments.

Whenever a reference is made to this Code as the Greeley Municipal Code or Greeley Code of Ordinances or 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.

(Code 1994, § 1.01.050; Ord. No. 22, 1982, § 5, 5-4-1982)

Sec. 1-4. Definitions.

The following words and phrases, whenever used in the ordinances of the city, shall be construed and defined

as in this section, unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases.

All its members or *all councilmembers.* The term "all its members" or "all councilmembers" means the total number of councilmembers holding office.

City. The term "city" means the City of Greeley, Colorado, or the area within the territorial limits of the City of Greeley, 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 manager. The term "city manager" means the city manager of the city.

County. The term "county" means the County of Weld.

C.R.S. The term "C.R.S." means Colorado Revised Statutes.

Law. The term "law" denotes applicable federal law, the Constitution and state statutes, the ordinances of the city and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

May. The term "may" is permissive.

Mayor. The term "mayor" means the mayor of the city.

Month. The term "month" means a calendar month.

Must and *shall.* The terms "must" and "shall" are each mandatory.

Oath. The term "oath" includes an affirmation and declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Owner. The term "owner," applied to building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The term "person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust or organization, or manager, lessee, agent, servant, officer or employee of any of them.

Personal property. The term "personal property" includes money, goods, chattels, things in action and evidences of debt.

Preceding and *following.* The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" includes lands, tenements and hereditaments.

Sidewalk. The term "sidewalk" means that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

State. The term "state" means the State of Colorado.

Street. The term "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 the State of Colorado.

Tenant and *occupant.* The term "tenant" and "applicant" apply to building or land and include any person who occupies the whole or part of such building or land, whether alone or with others.

Written. The term "written" includes printed, typewritten, mimeographed, multigraphed or otherwise reproduced in permanent visible form.

Year. The term "year" means a calendar year.

(Prior Code, § 1-2; Code 1994, § 1.04.020; Ord. No. 21, 1980, § 3(part), 4-15-1980)

Sec. 1-5. Title, chapter and section headings.

(a) The catchlines of the several sections of this Code, printed in italicized type, are intended as mere

catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

(c) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Cross references and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(Code 1994, § 1.01.060; Ord. No. 22, 1982, § 6, 5-4-1982)

Sec. 1-6. Reference to specific ordinances, chapters, articles or sections.

The provisions of this Code shall not in any manner affect matters of record which refer to or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the Code, but such reference shall be construed to apply to the corresponding provisions contained within the Code. All references to chapters, articles, or sections are to the chapters, articles, and sections of this Code unless otherwise specified.

(Code 1994, § 1.01.070; Ord. No. 22, 1982, § 7, 5-4-1982)

Sec. 1-7. Effect of adoption of Code or repeal of ordinances ~~on past actions and obligations~~.

Neither the adoption of this Code nor the repeal or amendment of any ordinance or part or portion of any ordinance of the city shall in any manner revive any ordinance or provision in effect before the repeal; nor shall it affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances; nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, on the penal provisions applicable to any violation thereof; nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

(Code 1994, § 1.01.080; Ord. No. 22, 1982, § 8, 5-4-1982)

Sec. 1-8. Effect of Code on existing signs, notices and forms; effect of renumbering by amendatory ordinance on existing signs, notices and forms.

(a) All signs, notices and forms existing on the effective date of this Code that cite or refer to ordinances by reference to the 1994 edition of the City Code ("1994 Code"), as supplemented or amended, that have been codified in this Code shall be valid, notwithstanding the fact that such signs, notices and forms cite or refer to the 1994 Code and all such signs, notices and forms shall be construed to cite or refer to the successor provisions in this Code.

(b) If an ordinance renumbers any provision of this Code, all signs, notices and forms existing on the effective date of such ordinance that cite or refer to provisions of this Code that were renumbered shall be valid and all such signs, notices and forms shall be construed to cite or refer to the renumbered provisions in this Code.

~~**1.01.090. Penalty sec.s of code.**~~

~~.The following sections of the Code are penalty sections, and the penalty sections are hereinafter set forth in full and reenacted according to section 31-16-204, C.R.S.: section 1.32.010, 1.32.020, 1.32.030, 1.33.010, 1.33.040, 2.04.060, 2.08.300, 2.08.310, 2.08.315, 2.08.470, 2.08.530, 4.04.069, 4.04.070, 4.04.315, 4.04.318, 4.04.500, 4.04.550, 4.08.110, 4.12.090, 4.16.090, 4.20.510, 6.04.560, 6.12.090, 6.12.100, 6.12.230, 6.16.133, 6.16.138, 6.20.090, 6.24.850, 6.48.370, 6.64.270, 6.80.080, 7.32.060, 9.16.210, 9.18.160, 9.24.050, 9.32.060, 9.32.080, 9.36.090, 9.44.060, 9.49.030, 9.52.038, 10.04.020, 10.26.040, 10.26.050, 10.26.060, 11.01.202, 11.01.237, 11.01.302, 11.01.313, 11.01.413, 11.01.501, 11.01.614, 11.01.1213, 11.01.1402, 11.01.1409, 11.01.1411, 11.01.1701, 11.01.1702, 11.01.1716, 11.01.1904, 11.12.230, 13.04.052, 13.04.300, 13.20.120, 13.42.200, 14.04.270, 14.08.220, 14.08.290, 14.12.460, 14.16.200, 14.40.060, 14.50.070, 16.04.070, 16.04.080, 16.08.100, 16.28.080, 16.30.060, 16.32.250, 16.36.160, 16.56.020, 16.60.160, 18.04.1310, 18.14.040 and 18.56.220~~

~~(Code 1994, § 1.01.090; Ord. 19, 2011 §§1, 2; Ord. 48, 2006 §1; Ord. 66, 2003, §§1, 2, 11-4-2003; Ord. 47, 1985 §1; Ord. 22, 1982 §9 (part))~~

~~Chapter 1.04 General Provisions~~

~~1.04.010. Short title.~~

~~The ordinances embraced in the following chapters and sections shall constitute and be designated the *Greeley* Code *of Ordinances* and may be so cited~~

~~(Code 1994, § 1.04.010; Ord. 21, 1980 §3(part); Prior Code, § 1-1)~~

Sec. 1-9. Titles of officers.

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the city.

(Prior Code, § 1-3; Code 1994, § 1.04.030; Ord. No. 21, 1980, § 3(part), 4-15-1980)

Sec. 1-9. Interpretation of language.

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such other words which may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(Prior Code, § 1-4; Code 1994, § 1.04.040; Ord. No. 21, 1980, § 3(part), 4-15-1980)

Sec. 1-10. Grammatical interpretation.

The following grammatical interpretation shall apply to the ordinances of the city unless it is apparent from the context that a different construction is intended:

(1) *Gender*. Each gender includes the masculine, feminine and neuter genders.

(2) *Singular and plural*. The singular number includes the plural and the plural includes the singular.

(3) *Tenses*. Words used in the present tense include the past and future tenses and vice versa unless manifestly inapplicable.

(Prior Code, § 1-5; Code 1994, § 1.04.050; Ord. No. 21, 1980, § 3(part), 4-15-1980)

Sec. 1-11. Acts by agents for principals.

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent. If not expressly designated by separate ordinance or Charter provision, all directors and heads of departments of the city shall designate in writing their agents, by title, authorized to act in all matters for the head or director of that department and file such designation with the city clerk.

(Prior Code, § 1-6; Code 1994, § 1.04.060; Ord. No. 21, 1980, § 3(part), 4-15-1980; Ord. No. 13, 2011, § 1, 4-19-2011)

Sec. 1-12. Prohibited acts or omissions include causing, permitting and concealing.

Whenever in the city ordinances any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

(Prior Code, § 1-7; Code 1994, § 1.04.070; Ord. No. 21, 1980, § 3(part), 4-15-1980)

Sec. 1-13. Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded.

(Prior Code, § 1-8; Code 1994, § 1.04.080; Ord. No. 21, 1980, § 3(part), 4-15-1980)

~~1.04.090. Catchlines of sections.~~

~~The catchlines of the several sections of the Greeley Municipal Code, printed in italicized type, are intended~~

~~as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.~~

~~(Code 1994, § 1.04.090; Ord. No. 21, §, 19803(part); Prior Code, § 1-9)~~

Sec. 1-14. Construction of provisions, generally.

(a) The provisions of the ordinances of the city and all proceedings under them are to be construed with a view to affect their objects and to promote justice. When necessary, provisions shall be liberally construed in order that the true intent and meaning of the council may be fully carried out.

(b) In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than another more general provision imposed by the Code or other law, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

(Prior Code, § 1-10; Code 1994, § 1.04.100; Ord. No. 21, 1980, § 3(part), 4-15-1980)

Sec. 1-15. Supplementation of Code.

(a) By contract or by City personnel, supplements to this Code shall be prepared at least on an annual basis. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the City Council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by their omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions.

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

(4) Change the words "this ordinance" or words of the same meaning to "this Title," "this chapter," or "this section," as the case may be, or to "sections _____ through _____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code).

(5) Make other nonsubstantive changes necessary to preserve the original meanings of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

~~**1.04.110. Repeal of ordinances; effect.**~~

~~The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.~~

~~The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed or cause of action arising under the ordinance repealed~~

~~(Code 1994, § 1.04.110; Ord. 21, 1980 §3(part); Prior Code, § 1-11)~~

Sec. 1-16. Severability.

The sections, subsections, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, subsection or section of the Code is declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, subsections and sections of the Code.

(Prior Code, § 1-12; Code 1994, § 1.04.120; Ord. No. 21, 1980, § 3(part), 4-15-1980)

Secs. 1-17--1-37. Reserved.

CHAPTER 2. ADMINISTRATIVE FEES

Sec. 1-38. Establishment of administrative fees.

In order to defray the cost of providing certain administrative services, as well as the cost of making available for public use certain city facilities, the city manager may establish fees to be paid by the users of such services and facilities. Such fees may include, without limitation, fees for recreation and cultural services, cemeteries and the use of other city facilities. The city manager shall include in his recommended budget an itemization of the fees currently being charged for such services and facilities, together with an estimate of the amount of annual revenue anticipated to be generated by such fees during the budget term for approval by city council along with the annual budget.

(Code 1994, § 1.05.010; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 1-39. Amounts of administrative fees.

The amounts of the fees established under the authority of section 1-38 shall be determined by the city manager according to established criteria, including, but not limited to, the following:

(1) The amount of estimated revenue to be generated by each such fee shall not exceed the estimated cost of providing the service or facility for which such fee is charged;

(2) Any distinctions made among feepayers, in terms of the amounts to be paid by such feepayers for the use of a particular service or facility, shall be reasonably related to a legitimate municipal purpose. Such distinctions may include, without limitation, reduced rates for senior citizens, youth, lower income residents and disabled persons;

(3) The extent to which the total cost of a particular service or facility should be recovered through the imposition of fees.

(Code 1994, § 1.05.020; Ord. No. 26, 2011, § 1, 9-6-2011)

Secs. 1-40--1-66. Reserved.

CHAPTER 3. CODE AMENDMENT AND ALTERATION

Sec. 1-67. Effect of amendment or repeal.

All ordinances passed in accordance with this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection, or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages. The subsequent ordinances, as numbered and printed or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that the Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the city council.

(Prior Code, § 1-13(a); Code 1994, § 1.08.010; Ord. No. 21, 1980, § 3(part), 4-15-1980)

Sec. 1-68. Amendment or repeal of existing provisions.

All ordinances which amend or repeal existing ordinances shall, for the information of the city council, have as an appendix thereto a copy of the existing ordinances to be amended or repealed setting forth in full the sections to be amended or repealed.

(Prior Code, § 1-13(c); Code 1994, § 1.08.020; Ord. No. 21, 1980, § 3(part), 4-15-1980; Ord. No. 37, 1984, § 1(part), 5-15-1984)

Sec. 1-69. Altering Code unlawful.

It is unlawful for any person, firm or corporation in the city to change or amend, by additions or deletions, any part or portion of this Code or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

(Prior Code, § 1-14; Code 1994, § 1.08.050; Ord. No. 21, 1980, § 3(part), 4-15-1980)

Secs. 1-70--1-96. Reserved.

CHAPTER 4. CITY SEAL

Sec. 1-97. City seal designated.

A seal, the impression of which is as follows: In the center a sheaf of wheat and the term "seal," surrounded by the words, "City of Greeley, Weld County, Colorado; Incorporated April 6th, A.D. 1886," is the official seal of the city.

(Prior Code, § 2-11; Code 1994, § 1.12.010)

Secs. 1-98--1-122. Reserved.

CHAPTER 5. CITY FLOWER

Sec. 1-123. City flower designated.

The Gladiolus is designated as the flower of the city.

(Prior Code, § 2-12; Code 1994, § 1.16.010)

Secs. 1-124--1-144. Reserved.

CHAPTER 6. ORDINANCES

~~**1.20.010. Procedure for passage.**~~

~~The following procedure for enactment of ordinances shall be followed:~~

~~— The ordinance shall be introduced at any regular or special meeting of the city council by any member thereof.~~

~~— The reading of an ordinance shall consist only of reading the title thereof, provided that copies of the full ordinance proposed shall have been available in the office of the city clerk at least 48 hours prior to the time such ordinance is introduced for each member of the city council, and for inspection and copying by the general public; and provided further that a majority of the city council may request that an ordinance be read in full at any reading of the same, in which case such ordinance shall be read in full at such reading.~~

~~— After the introduction of the ordinance and any amendments thereof, the same shall be approved or rejected by the vote of the city council.~~

~~— If the ordinance is approved on first introduction, it shall be published in full unless otherwise provided herein. The city council shall set a date, hour and place at which the city council shall hold a public hearing on the ordinance, and notice of said day, hour and place shall be included in first publication.~~

~~— The ordinance shall be introduced at city council the second time at a meeting not earlier than ten days after first publication for final approval, rejection or other action as may be taken by vote of the city council. This meeting may be the same meeting at which the public hearing on the ordinance is held. The ordinance may be amended before the final approval by the vote of the city council.~~

~~— Except as otherwise provided in this chapter, an ordinance, if amended in substance, shall be published in full after final passage. But if not amended in substance, it shall be published either by title or in full~~

~~as the city council may determine.~~

~~— Whenever an ordinance shall be published by reference or by title, the publication shall contain a summary of the subject matter of said ordinance and shall contain a notice to the public that copies of the proposed ordinance are available at the office of the city clerk.~~

~~— Standard codes promulgated by the federal government, the State of Colorado or by any agency of either of them, or by recognized trade or professional organizations or amendments or revisions thereof, may be adopted by reference following a public hearing, provided that the publication of the bill or ordinance adopting any said code shall advise that copies thereof are available for inspection at the office of the city clerk, and, provided that any penalty clause in said codes may be adopted only if set forth in full and published in the adopting ordinance. Primary codes thus adopted may in turn adopt secondary codes~~

~~(Code 1994, § 1.20.010; Ord. 38, 1985 §1; Prior Code, § 2-9)~~

Sec. 1-145. Adoption of codes by reference.

The following shall be the only requirements necessary to adopt any code by reference by the city:

(1) The title of the adopting ordinance shall specify the general name of the primary code and every secondary code adopted.

~~(2) Not less than three copies of the primary code and of each secondary code shall be on file with the city clerk from the date the proposed ordinance is passed on first reading. Following the adoption of such codes, copies shall be available at the city clerk's office, to be purchased by the public at a cost as set in accordance with section 1-38.~~

(2) The adopting ordinance shall be adopted and published as other ordinances of the city, except that the provisions of the codes need not be published or read at the city council meeting. At least three copies of such codes shall be available for inspection or reading at the city council meetings when the adopting ordinance is voted upon.

(3) The adopting ordinance shall specify when it will be on the city council agenda for passage the second time and this shall be considered the public hearing concerning the code or codes to be adopted.

(4) Amendments to such codes shall be made in the same manner as the adoption of such codes.

(Prior Code, § 2-9.1; Code 1994, § 1.20.020; Ord. No. 26, 2011, § 1, 9-6-2011)

~~1.20.030. Repeal or modification; effect.~~

~~No suit, proceeding, right, fine or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any wise be affected, released or discharged by such repeal or modification~~

~~(Code 1994, § 1.20.030; Prior Code, § 2-10)~~

Secs. 1-146--1-173. Reserved.

CHAPTER 7. ARREST, PROSECUTION AND SENTENCES

Sec. 1-174. Arrests.

An arrest may be made by a police officer with or without a warrant for criminal violations of ~~ordinances and codes of the city~~ this Code, designated as misdemeanor offenses or misdemeanor infractions, committed in his presence. Arrests with warrants may be made when authorized by the municipal court rules of procedure.

(Prior Code, § 15-3; Code 1994, § 1.24.010)

Sec. 1-175. Proceedings to conform to designated rules.

All proceedings pertaining to the enforcement of the ~~sanctions of the ordinances and~~ codes ~~of the city~~ shall be carried out in accordance with the municipal court rules of procedure, the Colorado Rules of Civil Procedure or the rules of administrative procedure promulgated by the state supreme court.

(Prior Code, § 15-4; Code 1994, § 1.24.020; Ord. No. 48, 2006, § 1, 10-17-2006)

Sec. 1-176. Offenses covered by multiple provisions.

In cases where the same ~~offense~~ violation is punishable or created by different clauses or sections of this Code ~~or other ordinance of the city~~, the prosecuting officer may select under which to proceed, ~~but no more than one recovery shall be had against the same person for the same offense,~~ but a person may not be convicted for more than one violation for the same conduct.

(Prior Code, § 1-16; Code 1994, § 1.24.030; Ord. No. 21, 1980, § 3(part), 4-15-1980)

Sec. 1-177. Jail term in lieu of fine.

Every person against whom any fine or penalty is adjudged, who has not been adjudged destitute and who refuses or neglects to pay the fine or penalty, shall be committed to the county jail one day for each $25.00 of the fine or penalty and costs, provided that such imprisonment shall not exceed 90 days for any one offense.

(Prior Code, § 1-17; Code 1994, § 1.24.040; Ord. No. 21, 1980, § 3(part), 4-15-1980; Ord. No. 11, 2005, § 1, 2-1-2005)

Sec. 1-178. Consecutive judgments and sentences; exception.

All judgments and sentences imposed and ordered by the municipal court shall run consecutively unless otherwise specifically provided by the judge of such court in such judgments and sentences.

(Prior Code, § 1-18; Code 1994, § 1.24.050; Ord. No. 21, 1980, § 3(part), 4-15-1980)

Secs. 1-179--1-209. Reserved.

CHAPTER 8. JAIL FACILITIES

Sec. 1-210. Use of county jail authorized.

Pursuant to section 2-186, the mayor and appropriate city officials are authorized to enter into an agreement with the county to provide jail services for municipal prisoners. The agreement shall provide a daily payment for the lodging of prisoners in the jail facility and a processing fee to be charged to the city for each prisoner. The agreement is attached to the ordinance codified at this section and incorporated herein by reference.

(Code 1994, § 1.28.010; Ord. No. 26, 1978, § 1, 6-6-1978)

Secs. 1-211--1-228. Reserved.

CHAPTER 9. GENERAL PENALTY

Sec. 1-229. Penalties ~~for violation~~ designated.

(a) No person shall violate any of the provisions of ~~the ordinances~~ this Code. Such violations shall be ~~punished as~~ subject to the punishment listed below:

(b) Misdemeanor offenses.

(1) Unless otherwise designated, any alleged criminal, non-administrative violation of this Code ~~a violation of each section of each ordinance of the city~~ shall be classified as a misdemeanor offense and heard by the municipal court pursuant to chapter 10 of title 2 of this Code.

(2) ~~Any~~ A person who ~~violates any of the provisions of~~ commits a misdemeanor offense, which includes traffic offenses, shall be ~~punished~~ subject to punishment by a fine of not more than $1,000.00 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

(c) Misdemeanor infractions.

(1) ~~Any~~ A person who violates any ordinance designated by this Code as a misdemeanor infraction, which includes traffic infractions and parking infractions, shall be ~~punished~~ heard by the municipal court and subject to punishment by a fine of not more than $500.00.

(2) ~~Any~~ A person ~~who receives a citation~~ cited for ~~violation of~~ a misdemeanor infraction shall be eligible to submit a plea and payment to the municipal court pursuant to ~~the fine in lieu proceedings~~ procedures established in section 2-991.

~~(1) Traffic offenses. Any person who violates any ordinance designated as a traffic offense shall be punished by a fine of not more than $1,000.00 or by imprisonment not to exceed one year, or by both such fine and imprisonment.~~

~~(2) Traffic infractions.~~

~~(A) Any person who violates any ordinance designated as a traffic infraction shall be punished by a fine of not more than $500.00.~~

~~(B) Any person who receives a citation for violation of a traffic infraction shall be eligible to submit a plea and payment to the municipal court pursuant to the fine in lieu proceedings established in section 2.08.360 of this Code.~~

~~(3) Parking infractions.~~

~~(A) Any person who violates any ordinance designated as a parking infraction shall be punished by a fine of not more than five hundred dollars ($500.00).~~

~~(B) Any person who receives a citation for a parking infraction shall be eligible to submit a plea and payment to the municipal court pursuant to the fine in lieu proceedings established in section 2.08.360 of this code.~~

(d) ~~Community or useful public service. A defendant, upon~~ Upon conviction, a person may be sentenced to perform a certain number of hours of community or useful public service, in addition to any other penalty imposed, and the municipal court may assess a fee to cover the cost of participation in the community or useful public service. ~~provided by subsections (b) through (f) of this section. If a person is convicted of more than one violation, community or useful public service may be imposed on any or each and every violation; any such community or useful public service penalties in excess of one arising out of multiple violations within one case may run and be satisfied concurrently or consecutively, in the discretion of this Court.~~

~~(1) For the purposes of this subsection (g), *community or useful public service* means any work which is beneficial to the public, any governmental entity or any bona fide nonprofit private or public organization and which work would not, with the exercise of reasonable care, endanger the health or safety of the person required to work.~~

~~(2) Any community or useful public service penalty imposed pursuant to this section shall be suitable to the age and abilities of the defendant, and the amount of community or useful public service work ordered shall be reasonably related to the seriousness of the violation(s).~~

~~(3) The Court may assess a fee to cover the costs of the defendant participating in the useful public service program, upon every person required to perform community or useful public service pursuant to this section. The Court may waive all or a portion of this fee if the court determines the defendant to be indigent.~~

(e) The municipal court may find a ~~defendant~~ person to be indigent upon a showing of credible written evidence of indigency.

(Prior Code, § 1-15(part); Code 1994, § 1.32.010; Ord. No. 21, 1980, § 3(part), 4-15-1980; Ord. No. 22, 1982, § 9(part), 5-4-1982; Ord. No. 40, 1984, § 1(part), 6-5-1984; Ord. No. 33, 1992, § 1, 5-19-1992; Ord. No. 6, 1994, § 1, 2-15-1994; Ord. No. 48, 2006, § 1, 10-17-2006; Ord. No. 27, 2010, § 1, 7-20-2010)

Sec. 1-230. Each day of violation a separate offense.

Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the city is committed, continued or permitted by any such person, and he shall be punished accordingly.

(Prior Code, § 1-15(part); Code 1994, § 1.32.020; Ord. No. 21, 1980, § 3(part), 4-15-1980; Ord. No. 22, 1982, § 9(part), 5-4-1982; Ord. No. 40, 1984, § 1(part), 6-5-1984)

Sec. 1-231. Juvenile penalties.

(a) The municipal court shall have the authority to apply all penalties to juvenile offenders who are at least ten but not 18 years of age as provided under this chapter, except as listed below.

(b) Pursuant to C.R.S. title 13, as amended from time to time, and notwithstanding any other provision of law, a child, as defined in C.R.S., title 19, art. 1, as amended from time to time, arrested for an alleged violation of a municipal ordinance, convicted of violating a municipal ordinance or probation conditions imposed by a municipal court or found in contempt of court in connection with a violation or alleged violation of a municipal ordinance shall not be confined in a jail, lockup or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the department of human services or a temporary holding facility operated by or under contract with a municipal government which shall receive and provide care for such child. A municipal court imposing penalties for violation of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a municipal ordinance may confine a child pursuant to C.R.S., title 19, art. 2, as amended from time to time, for up to 48 hours in a juvenile detention facility operated by or under contract with the department of human services. In imposing any jail sentence upon a juvenile for violating any municipal ordinance, when the municipal court has jurisdiction over the juvenile pursuant to C.R.S., title 19, art. 2, as amended from time to time, a municipal court does not have the authority to order a child under 18 years of age to a juvenile detention facility operated or contracted by the department of human services.

(c) A juvenile offender may be sentenced up to 45 days of in-home detention.

(d) For any juvenile offender who turns 18 years of age at the time of sentencing, the municipal court shall have the authority to apply all penalties as provided under this chapter.

(Code 1994, § 1.32.050; Ord. No. 24, 2008, § 1, 7-1-2008; Ord. No. 09, 2011, § 1, 2-15-2011)

Secs. 1-232--1-259. Reserved.

CHAPTER 10. ~~CODE INFRACTION~~ ADMINISTRATIVE SANCTIONS

Sec. 1-260. ~~Code infractions~~ Administrative process.

Where authorized in specific chapters within this Code, certain violations may be sanctioned administratively ~~as a code infraction~~. ~~All actions designated as code infractions shall be administrative and remedial in nature. The code infraction~~ The hearing on those violations shall be in the nature of an administrative proceeding ~~and shall proceed~~ as set forth in chapter 12 of title 2 of this Code.

(Code 1994, § 1.33.010; Ord. No. 48, 2006, § 1, 10-17-2006)

Sec. 1-261. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Violator* or *respondent* shall mean any individual or legal entity receiving a notice of violation for a code infraction violation~~

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

Administrative hearing officer means a person appointed by the city manager, who acts pursuant to chapter 12 of title 2 of this Code, and who is authorized to hear administrative code violations, including public nuisance cases brought pursuant to chapter 11 of this title.

Respondent means a person or entity receiving a notice of an alleged Code violation.

Restorative justice means practices that emphasize repairing the harm caused to the community by public nuisances and other Code violations. Restorative justice practices include neighbor or community conferences, and other similar practices.

(Code 1994, § 1.33.015; Ord. No. 47, 2007, § 1, 8-21-2007; Ord. No. 20, 2012, § 1, 6-5-2012)

Sec. 1-262. Each day of a Code ~~infraction~~ violation is separate violation.

~~Each person~~ Respondent is liable ~~of~~ for a separate ~~code infraction~~ Code violation for each and every day during any portion of which any violation of any provision of ~~the ordinances of the city designated as a code~~

~~infraction~~ this Code is committed, continued or permitted by ~~any such person~~ a respondent, and ~~he~~ shall be penalized accordingly. Each violation or public nuisance must be set forth on a notice ~~of violation~~ form and served as set forth in ~~subsection 2.09.120(d)~~ chapter 12 of title 2 of this Code.

(Code 1994, § 1.33.020; Ord. No. 48, 2006, § 1, 10-17-2006)

Sec. 1-263. Minimum sanctions.

(a) In addition to fees and costs assessed by the administrative hearing officer, a respondent found liable for a violation of this Code shall pay a fine of not more than $1,000.00, pursuant to the fine schedule below.

(1) Code violations other than for public nuisance.

a. The fine for a first violation shall be not less than $600.00. The administrative hearing officer may suspend up to $500.00 of the fine;

b. The fine for a second violation shall be not less than $800.00. The administrative hearing officer may suspend up to $300.00 of the fine;

c. The fine for a third or subsequent violation shall be not less than $1,000.00. The administrative hearing officer may suspend up to $500.00 of the fine.

(2) Public nuisance violations. Public nuisance violations, pursuant to chapter 11 of this title, shall be subject to a fine of not less than $1,000.00.

(3) Any repeat violation that occurs less than 12 months from the date of a finding of liability shall cause the full amount of the fine that may have been suspended under subsection (a) of this section to be automatically reinstated in full, without a hearing.

(b) In addition to fees and costs assessed by the administrative hearing officer and a fine, a respondent found liable for a violation of this Code shall pay the costs of any abatement action performed by the city ordered by the administrative hearing officer pursuant to section 1-264.

(c) Stipulations.

(1) If a property is brought into compliance by the compliance date set forth on the notice of violation, respondent's appearance at the hearing may be waived, the fine may be waived, and only fees and costs assessed in an amount set in accordance with chapter 2 of this title, if the following conditions are met:

a. Respondent agrees to plead liable for the Code violation, and signs a stipulation setting forth the liable plea, which stipulation shall be filed with the administrative hearing officer prior to or at the time set for the hearing; and

b. Respondent pays the fine and all fees and costs assessed at the finance department by 5:00 p.m. two business days before the hearing.

c. The city may agree to continue the hearing on one or all violations and may agree to enter into one or more stipulations for each case number.

(2) After a second or subsequent violation, if the property is brought into compliance by the compliance date set forth on the notice of violation, respondent's appearance at the hearing may be waived if the following conditions are met:

a. Respondent agrees to plead liable for the Code violation, signs a stipulation setting forth the liable plea, which stipulation shall be filed with the administrative hearing officer prior to or at the time set for the hearing; and

b. Respondent pays the fine and all fees and costs assessed at the finance department by 5:00 p.m. two business days before the hearing.

(3) If respondent signs a stipulation but fails to meet either of the conditions set forth under subsection (c)(1) or (2) of this section, respondent must appear at the scheduled hearing or be subject to entry of default judgment, as defined in chapter 12 of title 2 of this Code. In that event, the stipulation may be admitted into evidence at the hearing at the discretion of the administrative hearing officer.

(d) For the purposes of assessing sanctions for repeated or chronic violations pursuant to this chapter or chapter 11 of this title, the term "violation" includes each violation of the same Code section at any property or by the same owner, agent, contractor, or tenant regardless of property location within the city.

(e) A respondent found liable at a hearing by the administrative hearing officer for any violation of this Code shall pay the fine, fees, and costs assessed at the finance department by 5:00 p.m. two business days after the hearing.

(f) The administrative hearing officer may require respondent to perform a certain number of hours of community or useful public service, participate in a restorative justice program, or participate in relevant classes in addition to any other penalty authorized by this Code.

(g) If respondent fails to respond to a notice of Code violation or fails to appear at the hearing on the violation, a default judgment defined in chapter 12 of title 2 of this Code may be entered without proceeding with the hearing in the amount of the maximum administrative fine, plus any costs and fees assessed by the administrative hearing officer. The administrative hearing officer may issue any other order authorized by chapter 12 of title 2 of this Code.

~~— Any person found responsible for a violation of this Code authorized to be sanctioned as a code infraction shall pay an administrative fine of not more than $1,000.00 plus costs and expenses.~~

~~— Stipulations.~~

~~— In the event that the property is brought into compliance at least five business days prior to the violator's first administrative hearing appearance, the fine shall be waived and administrative costs assessed, in an amount set in accordance with section 1.05.010 of this chapter, if the following conditions are met:~~

~~— The violator agrees to plead liable for the code infraction, and the violator and a representative of the city division that issued the Notice of Violation sign a written stipulation setting forth the liable plea, which stipulation shall be filed with the administrative hearing officer prior to or at the time set for the hearing.~~

~~— The violator pays the administrative costs at the Building Inspection division or the Finance Department by 5:00 p.m. two business days before the hearing.~~

~~— The violator has not been found liable for any code infraction violations in the three-hundred-sixty-five-calendar-day period prior to the date of the current violation.~~

~~— The parties may agree to continue the hearing on one or all violations and may agree to enter into one or more stipulations for each case number. A fee is assessed per stipulation in an amount set in accordance with section 1.05.010 of this chapter.~~

~~— In the event that a property is brought into compliance at least five business days prior to the violator's administrative hearing on a second violation, the violator's appearance may be waived, provided that the violator pays the fine and all administrative costs at the Building Inspection division or the Finance Department by 5:00 p.m. two business days before the hearing.~~

~~— In the event the violator signs a written stipulation but fails to meet one or more of the conditions set forth under subsection (1) or (2) of this section, the violator will be required to appear at the scheduled hearing. In this event, the stipulation may be admitted into evidence at the administrative hearing at the discretion of the administrative hearing officer.~~

~~— For the purposes of assessing sanctions for repeated violations pursuant to this section, *violation* includes each violation at any property or for an owner, agent, contractor or tenant, regardless of property location within the city; and *violation* is limited to a violation of the same Code section.~~

~~— A person found liable by the administrative hearing officer for any violation of this Code charged as a code infraction shall pay the fine and costs assessed, which may include all reasonable costs, direct and indirect, which the city has proved were incurred in connection with the code infraction. All such fines and costs shall be paid at the Finance Department during business hours immediately following such a finding.~~

~~— The administrative hearing officer may require the violator to perform a certain number of hours of community or useful public service, require the violator to participate in a restorative justice program or require the violator to participate in good neighbor or other classes in addition to any other penalty authorized by this chapter.~~

~~— The administrative hearing officer may enter an order for injunctive relief and/or any other remedies authorized by law.~~

~~— The administrative hearing officer may issue any orders necessary to abate the infraction, which abatement order shall provide that a Code Enforcement Officer, building official, police officer or his designee may, without a court order, take reasonable steps to abate a code infraction and prevent it from recurring as long as the same may be accomplished without entering any building upon the parcel.~~

~~— If a violator fails to answer a notice of violation for a code infraction or fails to appear before the administrative hearing officer for such infraction, a default judgment may be entered in the amount of the maximum administrative penalty, plus all costs, expenses, fees and damages. The administrative hearing officer may issue any other order authorized by this chapter; however, if there are multiple violations within one case, the administrative hearing officer may impose the maximum administrative penalty either once per case or per violation, at the discretion of the administrative hearing officer.~~

~~— In the event a violator fails to pay a code infraction penalty, costs, damages or expenses within 30 calendar days after the payment is due, the city may pursue any legal means for collection. Where the code infraction involves property and the owner of the property is the violator, the city may obtain a lien against the property. The lien shall have priority over all liens, except general taxes and prior special assessments. If the violator fails to pay the lien for 30 calendar days, the lien may be certified by the director of finance to the county treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by state law.~~

~~— The administrative hearing officer may waive all or a portion of the code infraction penalty and costs if the Hearing Officer determines the violator to be indigent upon the violator's presentation of written credible evidence of indigency.~~

~~— Credible evidence of indigency may include, but is not limited to, tax returns, W-2 statements and eligibility statements from any county social service agency.~~

~~— *Indigency*, for the purposes of this chapter, means the violator meets one of the following:~~

~~— Total household income is at or below one hundred thirty-five percent (135 percent) of the poverty level as determined by the United States Department of Health and Human Services; and liquid assets are equal to or less than one thousand five hundred dollars ($1,500.00).~~

~~— Total household income is up to twenty-five percent (25 percent) of this section the current federal poverty guidelines as published in the federal register; and liquid assets are equal to or less than one thousand five hundred dollars ($1,500.00); and reasonable monthly expenses equal or exceed monthly income.~~

~~— The administrative hearing officer will adopt procedures to institute this section, including a determination of what constitutes reasonable monthly expenses~~

(Code 1994, § 1.33.030; Ord. No. 48, 2006, § 1, 10-17-2006; Ord. No. 10, 2007, § 1, 3-6-2007; Ord. No. 47, 2007, § 1, 8-21-2007; Ord. No. 04, 2008, § 1, 2-5-2008; Ord. No. 26, 2008, § 1, 7-1-2008; Ord. No. 6, 2009, § 1, 4-7-2009; Ord. No. 40, 2011, § 1, 12-6-2011; Ord. No. 20, 2012, § 1, 6-5-2012)

Sec. 1-264. Abatement; emergency abatement.

(a) If the administrative hearing officer determines that the Code violation should be abated by the city, the administrative hearing officer shall issue an order for abatement by the city of the violation, charged to the owner of the property. A copy of such order shall be served on the owner of the property pursuant to chapter 12 of title 2 of this Code.

(b) Within 45 calendar days of the date that the property is abated pursuant to an abatement order, the city

shall serve notice to the owner of the property pursuant to chapter 12 of title 2 of this Code of the following:

(1) The abatement action has taken place;

(2) The owner has been charged a reasonable amount for the abatement, together with an administrative fee set in accordance with chapter 2 of this title, plus 20 percent of the costs for abating the violation, inspections, and other expenses, to cover the city's costs for performing the abatement and to encourage citizen compliance with the Code; and

(3) That the owner has the right to move the administrative hearing officer for reconsideration of the abatement charges pursuant to chapter 12 of title 2 of this Code.

(c) If the owner does not move for reconsideration of the abatement charges, the costs of abatement shall become final and shall be collected in accordance with chapter 12 of title 2 of this Code.

(d) If the owner moves for reconsideration, and the abatement charges are upheld by the administrative hearing officer, the costs of abatement shall become final and shall be collected in accordance with chapter 12 of title 2 of this Code.

(e) If the city determines that a Code violation is a cause of imminent danger to the public health, safety, or welfare, the city may request an ex parte emergency abatement order from the administrative hearing officer, without providing notice to the owner.

(1) If the administrative hearing officer determines that the city has proven that such order is reasonably necessary to avoid imminent danger to the public health, safety, or welfare and that the violation should be abated, he shall issue an order for emergency abatement.

(2) The purpose of an emergency abatement order shall be to temporarily abate an alleged repeated or chronic violation pending the final determination of the violation at a hearing. An emergency abatement order may be issued by the administrative hearing officer pursuant to the provisions of this section even if the effect of such order is to change, rather than preserve, the status quo.

Sec. 1-265. Self-referral.

Any property owner who leases ~~his~~ property ~~or unit~~ for rent within the city may register a complaint with the code ~~enforcement division~~ compliance office regarding conditions on ~~his~~ the tenant-occupied property ~~or unit~~ which are not in compliance with this Code. Any property owner who self-refers in this manner will not receive a notice of violation for that property for a 30-day period, provided that the property owner has provided the city with a copy of a valid lease which states that the tenant and property owner have agreed that property maintenance is the obligation of the tenant. In addition, the property owner shall provide written evidence to the code ~~enforcement personnel~~ compliance office demonstrating that the property owner has previously made the tenant aware of the violation and of the tenant's obligation to correct the violation. A property owner may only self-refer once per ~~code~~ violation per ~~unit or~~ property per lease period.

(Code 1994, § 1.33.035; Ord. No. 6, 2009, § 1, 4-7-2009)

~~**1.33.040. Failure to comply with orders of administrative hearing officer.**~~

~~Failure to comply with any order issued by the administrative hearing officer shall constitute a criminal violation of this Code and violators may be subject to prosecution in front of the municipal judge and be penalized pursuant to chapter 1.32 of this Title~~

~~(Code 1994, § 1.33.040; Ord. 48, 2006 §1)~~

Secs. 1-266—1-276. Reserved.

CHAPTER 11. PARKING INFRACTION SANCTIONS

Sec. 1-277. Enforcement and sanctions.

(a) The city manager shall by administrative rule designate those employees who are authorized to issue citations for parking infractions pursuant to this Code. These employees shall be designated as parking enforcement officers. All employees of the police department are designated parking enforcement officers.

(b) Any person who violates any ordinance designated as a parking infraction shall be penalized by a fine of not more than $500.00 per violation and shall be required to pay all assessed costs and fees.

(c) The city manager shall by administrative rule designate those employees who shall specify by suitable schedules, the fees, costs and fees for violations of title 11, chapter 2, including any costs and fees for failing to respond in a timely manner. The designee may adopt schedules or procedures which authorize a reduction in fines for violations of title 11, chapter 2.

(Ord. No. 12, 2019, exh. A § 1.34.010, 3-19-2019)

Sec. 1-278. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Motor vehicle or *vehicle* means any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; except that the term "motor vehicle" or "vehicle" does not include electrical assisted bicycles, low-power scooters, wheelchairs, or vehicles moved solely by human power. For the purposes of this chapter, the terms "motor vehicle" and "vehicle" shall include a trailer.

Trailer means any wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public roadways.

(Ord. No. 12, 2019, exh. A § 1.34.020, 3-19-2019)

Sec. 1-279. Notice and procedure for parking violations.

(a) If any motor vehicle is found parked, standing, or stopped in violation of the parking ordinances or rules promulgated by the city, the vehicle may be affixed with a penalty assessment citation ("citation").

(1) The citing parking enforcement officer shall note the vehicle license plate number and any other information concerning the motor vehicle that will identify it and, if the driver is not present, shall conspicuously affix the citation to the motor vehicle.

(2) The citation shall include information about the particular parking, standing or stopping violation that has occurred at that time and place, set forth the amount of the penalty assessment, state the procedure for payment of the penalty assessment, the method by which the alleged violation may be protested, and notice of procedures to collect delinquent assessments.

(b) Any person charged with a parking infraction for which a citation may be issued and for which payment of a fine may be made to the parking services office shall have the option of paying such fine within the date, time and at a place specified in the citation.

(1) Payment of a citation by the person to whom the citation is served shall constitute an acknowledgment by such person of his violation of the Code as stated in such citation.

(2) Payment of the prescribed fine shall be deemed a complete satisfaction for the violation, and the city, upon accepting the prescribed fine, shall upon request issue a receipt acknowledging payment thereof. Checks tendered and accepted, and on which payment is received, shall be deemed sufficient receipt.

(3) Parking citations may be paid or appealed electronically, via mail or in person at the location identified on the citation.

(c) If the driver or owner of a motor vehicle charged with a violation of any parking, standing or stopping provision of this Code fails to respond to a citation affixed to the vehicle, the city shall send, at the cost of the owner, another notice 30 days from the infraction date by mail to the registered owner of the vehicle to which the original notice was affixed, warning him that payment of the citation is past due and, in addition, in the event such notice is disregarded for a period of 30 days from the date of mailing, the vehicle is subject to immobilization and the procedures described in this chapter.

(d) The parking services office shall adopt procedures for the collection of delinquent parking violations,

which may include the engaging of collection services. The owner shall additionally pay any associated collection costs, fees and/or commissions for these collection services.

(e) Any person cited for a violation of a parking infraction who believes that such citation has been issued in error shall have the right to contest the validity of the citation.

(1) The first appeal of a citation must occur within 15 days of the citation to the parking services office. Where the parking services office finds that the violation has not been established, the citation shall be dismissed. Where the parking services office finds that the violation has been established, the parking services office shall uphold the citation and order the registered owner of the vehicle to pay the applicable fines, penalty and costs within seven days of the date of the decision of the parking services office.

(2) The decision of the parking services office may be appealed to the parking referee within seven days of parking services decision to uphold the citation. Where it has been established that a violation was committed by a preponderance of the evidence, the parking referee shall uphold the citation and order the registered owner of the vehicle to pay the applicable fines, penalties and costs as ordered by parking referee within 45 days. Such costs may include administrative costs as determined by the city manager. A copy of such order shall be issued to the registered owner of the vehicle.

(Ord. No. 12, 2019, exh. A § 1.34.030, 3-19-2019)

Sec. 1-280. Responsibilities of person who receives citation; liability of vehicle owner.

(a) *Person receiving citation.* Any person who receives a citation shall respond to such citation within the date, time and at a place specified in the citation by either paying the fine set forth in the citation or exercising the dispute options set forth in the citation.

(b) *Vehicle owner.* If the owner of a vehicle subject to a citation has not responded to the citation within the date, time and at a place specified in the citation, the owner shall be subject to the fines and fees established in accordance with this Code.

(c) *Owner liable.* The registered owner of a vehicle at the time the violation occurred shall be liable for all unpaid fines and fees.

(Ord. No. 12, 2019, exh. A § 1.34.040, 3-19-2019)

Sec. 1-281. Immobilization authority.

(a) Pursuant to section 16-601, the city has the authority to arrange for the removal, towing and storage of motor vehicles illegally parked or abandoned.

(b) When a driver, owner or person in charge of a vehicle has failed to respond to a citation issued pursuant to this Code, and has also failed to respond to an additional notice sent to the registered owner, parking enforcement officers are authorized to immobilize such vehicle for a period of 72 hours by installing on, or attaching to such vehicle, a device designed to restrict the normal movement of such vehicle.

(c) Following immobilization of the vehicle, the parking enforcement officer shall conspicuously affix to such vehicle a notice, in writing, on a form provided by the parking services office, advising the owner, driver or person in charge of such vehicle, that such vehicle has been immobilized by the city for violation of one or more of the provisions of this Code, and that release from such immobilization may be obtained in a designated manner; that unless arrangements are made for the release of such vehicle within 72 hours the vehicle will be impounded at the direction of the parking enforcement officer, and that removing or attempting to remove the device before a release is obtained is unlawful.

(d) If the vehicle has remained immobilized for a period of 72 hours and release has not been obtained, the parking enforcement officer shall have the vehicle impounded pursuant to the provisions outlined in this Code.

(e) Parking restrictions that are otherwise applicable shall not apply while a vehicle is immobilized.

(Ord. No. 12, 2019, exh. A § 1.34.050, 3-19-2019)

Secs. 1-282--1-290. Reserved.

CHAPTER 12. ~~GOOD NEIGHBOR ORDINANCE~~ PUBLIC NUISANCE VIOLATIONS

Sec. 1-291. Purpose; cooperative compliance efforts.

The purpose of this chapter is to promote the health, safety and welfare of the residents of the city by encouraging ~~good neighbor relations and to promote~~ and promoting compliance with this Code. In furtherance of this policy, the city shall provide enforcement mechanisms to ~~prosecute chronic offenders of this Code or otherwise abate~~ reduce chronic ~~offenses~~ violations of the Code as further outlined in this chapter.

(Code 1994, § 1.35.010; Ord. No. 6, 2009, § 2, 4-7-2009)

Sec. 1-292. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Abate* means to bring to a halt, eliminate or, where that is not possible or feasible, to suppress, reduce and minimize.~~

~~*Action plan* means any agreement entered into by the city and a violator designed to eliminate nuisances from a property or properties.~~

~~*administrative hearing officer* means those individuals appointed by the city manager and who act pursuant to chapter 2.09 of this Code who are authorized to hear code infraction and/or chronic offender cases.~~

~~*Affirmative defense* means a situation or condition that is raised by a violator in response to an alleged violation which, if proven to be true, relieves the respondent from responsibility for the violation.~~

~~*Arm's - length transaction* means a transaction between two otherwise unrelated or unaffiliated parties.~~

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

~~*Business* means any organization or entity that operates on a property, including, but not limited to, sole proprietorships, corporations, partnerships, limited liability corporations and nonprofit corporations. A business for the purposes of this chapter shall be deemed to be the same entity, regardless of changes in its legal formation, if changes are done in a transaction that has not been done at arm's length.~~

~~*Chronic offender* means an individual or business who or which has been convicted of three nuisance violations of this Code within a twelve-month period, or five nuisance violations of this Code within an eighteen-month period. For the purposes of this chapter, the convictions required must have occurred as the result of nuisance violations that did not occur on the same day. A chronic offender can be a property owner, agent or tenant.~~

~~*Chronic offense complaint* means the document which the city files to begin the process of declaring an individual or business a chronic offender, or declaring a property a chronic offense property.~~

~~*Chronic offense property* means a parcel of real property on which activities have resulted in three nuisance convictions against any individual or business within a twelve-month period, or five nuisance convictions against any individual or business within an eighteen-month period. A chronic offense property is also a parcel of real estate consisting of a complex of multiple individual residences or dwelling units and/or businesses, on which activities have resulted in four nuisance convictions against any individual or business within a twelve-month period or six nuisance convictions against any individual or business within an eighteen-month period for a complex of four or less dwelling units and/or businesses; or five nuisance convictions against any individual or business within a twelve-month period or seven nuisance convictions against any individual or business within an eighteen-month period for a complex of more than four but less than nine dwelling units and/or businesses; or six nuisance convictions against any individual or business within a twelve-month period or eight nuisance convictions against any individual or business within an eighteen-month period for a complex of nine or more dwelling units and/or businesses. For the purposes of this chapter, the required convictions must have occurred as the result of violations~~

~~that did not occur on the same day.~~

~~*Leasehold interest* means a lessor's or lessee's interest in real property under a verbal or written lease agreement.~~

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

~~*municipal court* or *Court* means the municipal court of the city as established in the city Charter and chapter 2.08 of this Code.~~

~~*Nuisance violation* means any nontraffic conviction of the laws of, respectively, the city, County or State, which disturbs the peace of the neighborhood or otherwise harms the health, safety or welfare of the residents of the city, to specifically include any and all convictions pursuant to Titles 6, 7, 9, 10, 13 and 18 of this Code.~~

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

~~*Respondent* means the property itself, any person owning or claiming any legal or equitable interest or right of possession in the property, all tenants and occupants at the property, all managers and agents for any person claiming a legal or equitable interest in the property, any person committing, conducting, promoting, facilitating or aiding the commission of or flight from a code infraction and any other person whose involvement may be necessary to carry into effect the administrative hearing officer's orders.~~

~~*Unit* means each individual dwelling space within a multi-unit dwelling which is capable of legally being occupied as a separate dwelling space~~

Chronic violation property means a parcel of real property or a unit within a complex for which activities have resulted in a conviction of or finding of liability for public nuisance violations, as defined in this chapter, against a person or business owning or occupying the property:

(1) Three times within a 12-month period, or five times within an 18-month period if the property contains only one dwelling unit or business;

(2) Four times within a 12-month period, or six times within an 18-month period for a complex consisting of four or fewer dwelling units and/or businesses;

(3) Five times within a 12-month period, or seven times within an 18-month period for a complex consisting of more than four but fewer than nine dwelling units and/or businesses;

(4) Six times within a 12-month period, or eight times within an 18-month period for a complex consisting of nine or more dwelling units and/or businesses;

(5) For the purposes of counting only, multiple violations occurring on the same day count as one violation.

Chronic violator means a person or business who or which has been convicted of or found liable for three public nuisance violations, as defined in this chapter, within a 12-month period, or five public nuisance violations within an 18-month period. For the purposes of counting only, multiple violations occurring on the same day shall be counted as one violation. A chronic violator can be a property owner, agent, or tenant.

Public nuisance violation means a conviction or finding of liability under any nontraffic laws of the city, county, or the state, that harms the health, safety, or welfare of the residents of the city.

(Code 1994, § 1.35.020; Ord. No. 6, 2009, § 2, 4-7-2009)

Sec. 1-293. Chronic ~~offender~~ violator databases; chronic ~~offense~~ violation property database.

(a) *Chronic ~~offender tenant~~ violator database.*

(1) *Maintenance of database*. The city shall maintain a database of the name of any property owner, agent

or tenant who has been ~~found to be a chronic offender~~ declared a chronic violator pursuant to section 1-295. The database shall be available to the general public.

(2) *Removal from database*~~. The city shall remove the names of tenants from the database when the city learns or is notified that the tenant has not been cited or convicted of any nuisance violations within 12 months of the tenant's placement on the chronic offender tenant database~~. The city shall remove the name of a property owner, agent, or tenant from the chronic violator database when the city learns or is notified that the property owner, agent, or tenant has not been convicted or found liable for any public nuisance violations within 12 months of placement on the database.

(b) *Chronic violation property database.*

(1) *Maintenance of database.* The city shall maintain a database of the addresses of each property parcel or unit within complexes that has been declared to be a chronic violation property pursuant to section 1-295. The database shall be available to the general public.

(2) *Removal from database.* The city shall remove the address from the database when the city learns or is notified of one of the following events:

a. That the parcel or unit has not been the location of a conviction or finding of liability for any public nuisance violations within 12 months of the placement on the database; or

b. That the parcel or unit has been transferred in a documented transaction, subject to the requirements outlined in section 1-298.

~~Chronic offender owner/agent database.~~

~~Maintenance of database. The city shall maintain a database of the name of any property owner or agent who has been found to be a chronic offender pursuant to this chapter. The database shall be available to the general public.~~

~~Removal from database. The city shall remove the names of property owners or agents from the database when the city is notified that the property owner has not been cited or convicted of any nuisance violations within 12 months of the property owner's placement on the chronic offender owner database.~~

~~Chronic offense property database.~~

~~Maintenance of database. The city shall maintain a database of the addresses of all properties or units which have been declared to be a chronic offense property pursuant to this chapter. The database shall be available to the general public.~~

~~Removal from database. The city shall remove the address of a property from the database when the city learns or is notified of one of the following events:~~

~~That the property has not been the location for a cited nuisance violation within 12 months of the placement of the property address on the chronic offense property database;~~

~~That the property has been transferred in an arm's-length transaction to an individual who has no relationship to the prior property owner~~

(Code 1994, § 1.35.030; Ord. No. 6, 2009, § 2, 4-7-2009)

Sec. 1-294. ~~Chronic offense property/chronic offender complaint~~ Action against chronic violator/chronic violation property; procedures in general.

~~Any chronic offender or chronic offense property action commenced shall be in the nature of an administrative proceeding. All issues of fact and law in such actions shall be tried to the administrative hearing officer. No equitable or affirmative defenses may be set up or maintained in any such action except as provided in section 1.35.100 below. Injunctive remedies under this chapter may be directed toward the real property or toward a particular person.~~

~~An action under this chapter shall be commenced by the serving of a chronic offense property/chronic offender complaint with the administrative hearing officer, which may be accompanied by a motion for an emergency abatement order. The complaint shall be signed by an agent of the city, which may include, but is not~~

~~limited to, employees of the Community Development Department or the city attorney's Office on behalf of the city.~~

~~__ Chronic offense property/chronic offender violations under the provisions of this chapter shall be strict liability violations. No culpable mental state of any type or degree shall be required to establish a chronic offense property/chronic offender violation under this chapter or to obtain approval for the remedies provided under this chapter. Proceedings under this chapter shall generally be governed by section 2.09.110 of this Code.~~

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

~~__ Actions under this chapter may be consolidated with another civil action under this chapter involving the same individual or business, or the same parcel of real property. Actions under this chapter shall not be consolidated with any other civil or criminal action. No party may file any counterclaim, cross-claim, third-party claim or set-off of any kind in any action under this chapter.~~

~~__ Chronic offense property/chronic offender violations may include actions affecting the use, possession and enjoyment of real property. Accordingly, the city may file and record with the county clerk and recorder a notice of lis pendens against the real property involved to fully inform and protect the interests of any bona fide innocent third party purchaser.~~

~~__ Neither party must, but either party may, be represented by an attorney. Chronic offense property/chronic offender violations may be administratively presented by the city attorney's Office or by those Code Enforcement personnel authorized to do so by the director of Community Development. The director of Community Development shall ensure that any Code Enforcement personnel authorized to administratively present these violations have received appropriate training.~~

~~__ Neither party shall have the right to cross-examination. The administrative hearing officer may, in his discretion, allow either party to ask questions of any witnesses, or may himself ask questions of any witnesses.~~

~~__ If the chronic offense property/chronic offender violation is proven by a preponderance of the evidence, the administrative hearing officer shall enter the appropriate findings and shall assess the appropriate sanction and costs as set forth in this Code. Minimum sanctions shall be as set forth in chapter 1.33 of this Title.~~

~~__ The parties to an action under this chapter may voluntarily stipulate to any remedy deemed appropriate by the parties. Approval of the administrative hearing officer to all stipulations is required~~

An action against a chronic violator or chronic violation property shall be in the nature of an administrative hearing process generally governed by chapter 10 of this title and chapter 12 of title 2 of this Code. Because such actions may affect the marketability of real property, the city may record with the county clerk and recorder a notice of lis pendens against the real property involved to fully inform and protect the interests of any bona fide innocent third-party purchaser.

(Code 1994, § 1.35.040; Ord. No. 6, 2009, § 2, 4-7-2009)

~~1.35.050. Parties to action; intervention.~~

~~__ The parties to a chronic offense property/chronic offender violation action include the city and the respondent(s). No respondent shall be deemed a necessary or indispensable party.~~

~~__ Any person holding any legal or equitable interest or right of possession in the property who has not been named as a respondent may intervene as respondent. No other parties may intervene~~

~~(Code 1994, § 1.35.050; Ord. No. 6, § 2, 2009)~~

~~1.35.060. Service of chronic offense property/chronic offender violation complaint.~~

~~__ Personal service upon the respondent is preferred and may be made by City personnel.~~

~~__ In the event that personal service cannot be made at the location of the chronic offense, service of the complaint upon the respondent shall be deemed sufficient if a copy of the same is posted in some prominent place~~

~~on the real property and sent by first-class mail to the respondent at the last-known address given by said person, at the address shown by public records or at the address listed upon any government-issued identification document bearing the photograph of said person presented to or found by any law enforcement officer or code enforcement officer. Service shall be deemed sufficient whether or not the complaint is actually received. Service shall be deemed completed seven calendar days after the letter is mailed.~~

~~(2) Service by publication. Respondents and unknown persons who may claim an interest in the property who cannot be served by mail as provided above and cannot be served after a good faith and diligent effort to do so may be served by publishing a copy of the notice of violation twice in a newspaper of general circulation within the city. The notice of violation shall describe the property at issue and the place where a copy of the notice of violation and attendant documents can be obtained. A party served by publication shall have 30 calendar days from the date of the last publication to respond.~~

~~(3) Agents of the city are authorized to enter upon the parcel for the purpose of posting these notices and to affix the notice in any reasonable manner to buildings and structures~~

~~(Code 1994, § 1.35.060; Ord. 6, 2009 §2)~~

Sec. 1-295. Declaration of ~~chronic offender/chronic offense property~~ chronic violator/chronic violation property; remedies.

~~(a) Declaration of chronic offense property.~~

~~(1) Whenever a chronic offense property complaint is filed by the city, the administrative hearing officer shall order a hearing which shall be held within 60 days of the filing of the complaint. The respondent may file an answer, which answer must be filed not less than ten days prior to the hearing. The respondent's answer must be filed with the administrative hearing officer and a copy sent to the Community Development Department.~~

~~(2) The city shall have the burden of proof as to the record of nuisance convictions. Upon proof by a preponderance of the evidence that a chronic offense property exists, the administrative hearing officer shall declare the property a chronic offense property, and the respondent shall be liable for fines resulting therefrom. The administrative hearing officer may also order such other equitable relief as deemed just and proper, including, but not limited to, injunctions and/or abatement.~~

~~(3) Once a property has been declared a chronic offense property, the city shall require more frequent periodic inspections of the property to check for violations of this Code. The frequency of such inspections and the duration of the increased inspection period shall be determined solely by the city. In making such a determination, the city shall evaluate the nature of the prior offenses, the number of complaints about the property and other factors determined to be relevant by the city.~~

~~(4) Once a property has been declared a chronic offense property, the respondent shall not be eligible for courtesy warnings in regard to future alleged nuisance violations.~~

~~(5) Once a property has been declared a chronic offense property, the matter may be referred by the city to the District Attorney for consideration of charges pursuant to C.R.S. § 16-13-301, et seq.,~~

~~(b) Declaration of chronic offender.~~

~~(1) Whenever a chronic offender complaint is filed by the city, the administrative hearing officer shall order a hearing which shall be held within 60 days of the filing of the complaint. The respondent may file an answer, which answer must be filed not less than ten days prior to the hearing. The respondent's answer must be filed with the administrative hearing officer and a copy sent to the Community Development Department.~~

~~(2) The city shall have the burden of proof as to the record of nuisance convictions. Upon proof by a preponderance of the evidence that the individual is a chronic offender, the administrative hearing officer shall declare the respondent a chronic offender and the respondent shall be liable for fines resulting therefrom. The administrative hearing officer may also order such other equitable relief as deemed just and proper, including, but not limited to, injunctions, educational classes and/or abatement.~~

~~(3) Once an individual or business has been declared a chronic offender, that individual or business shall not~~

~~be eligible for a deferred sentence or deferred prosecution in regard to future nuisance violations~~

(a) The administrative hearing officer shall declare a property owner, agent, or tenant a chronic violator if:

(1) At hearing, the city establishes the number and time period of public nuisance violations required by this chapter;

(2) The property owner, agent, or tenant fails to appear at a hearing, notice of which was served pursuant to chapter 12 of title 2 of this Code;

(3) The property owner, agent, or tenant stipulates, in accordance with chapter 10 of this title, to the declaration; and

(4) The administrative hearing officer shall order:

a. Placement on the database described in section 1-293(a); and

b. Payment of fees and costs as set forth in chapter 12 of title 2 of this Code, unless the city and the owner, agent, or tenant stipulates to orders and remedies, emergency or permanent, that are different from those provided in this chapter or chapter 10 of this title.

Nothing in this chapter shall be construed as limiting the city from pursuing any other remedies available at law or in equity, including referral to the county district attorney for consideration of charges pursuant to C.R.S. § 16-13-301, et seq.

(b) The administrative hearing officer shall declare a parcel of real property or a unit within a complex a chronic violation property if:

(1) At hearing, the city establishes the number and time period of public nuisance violations required by this chapter;

(2) The person or business owning or occupying the parcel or unit fails to appear at a hearing, notice of which was served pursuant to chapter 12 of title 2 of this Code;

(3) The person or business stipulates, in accordance with chapter 10 of this title, to the declaration; and

(4) The administrative hearing officer shall order:

a. Placement of the address on the database described in section 1-293(a); and

b. Payment of fees and costs as set forth in 2-1030; and

The city conduct periodic inspections of the address to check for violations of this Code. The frequency of such inspections and the duration of the increased inspection period shall be determined solely by the city; unless the city and the person or business stipulate to orders and remedies, emergency or permanent, that are different from those provided in this chapter or chapter 10 of this title. Nothing in this chapter shall be construed as limiting the city from pursuing any other remedies available at law or in equity, including referral to the county district attorney for consideration of charges pursuant to C.R.S. § 16-13-301, et seq.

(Code 1994, § 1.35.070; Ord. No. 6, 2009, § 2, 4-7-2009)

~~1.35.080. Abatement orders.~~

~~The issuance of emergency or permanent abatement orders under this chapter shall be governed by the provisions of Rule 65 of the Colorado Rules of Civil Procedure, pertaining to emergency restraining orders, preliminary injunctions and permanent injunctions, except to the extent of any inconsistency with the provisions of this chapter, in which event the provisions of this chapter shall prevail. Emergency abatement orders provided for in this chapter shall go into effect immediately when served upon the property or party against whom they are directed. Permanent abatement orders shall go into effect as determined by the administrative hearing officer. No bond or other security shall be required of the city upon the issuance of any emergency abatement order.~~

~~Every abatement order under this chapter shall set forth the reasons for its issuance; shall be reasonably specific in its terms; shall describe in reasonable detail the acts and conditions authorized, required or prohibited; and shall be binding upon the parcel, the parties to the action, their attorneys, agents and employees and any other person named as a party respondent in the chronic offense action and served with a copy of the order.~~

~~__ Emergency or permanent abatement orders entered under this chapter shall be narrowly tailored so as to address the particular kinds of separate violations that form the basis of the alleged chronic offense. Such orders may include:~~

~~__ Orders requiring any party-respondent to take steps to abate the chronic offense;~~

~~__ Orders authorizing the nuisance abatement officer or any other Code Enforcement Officer or police officer to take reasonable steps to abate the chronic offense activity and prevent it from recurring, considering the nature and extent of the separate violations;~~

~~__ Orders requiring certain named individuals to stay away from the parcel at all times;~~

~~__ Orders reasonably necessary to access, maintain or safeguard the parcel;~~

~~__ Orders reasonably necessary for the purposes of abating the chronic offense or preventing the chronic offense from occurring or recurring; provided, however, that no such order shall require the seizure of, the forfeiture of title to or the emergency or permanent closure of a parcel, or the appointment of a special receiver to protect, possess, maintain or operate a parcel; and/or~~

~~__ Orders authorizing access to a building, including the interior of the building if demonstrated to be necessary in order to finally abate the nuisance.~~

~~__ Emergency abatement orders.~~

~~__ The purpose of an emergency abatement order shall be to temporarily abate an alleged chronic offense pending the final determination of a chronic offender or chronic offense property. An emergency abatement order may be issued by the administrative hearing officer pursuant to the provisions of this section even if the effect of such order is to change, rather than preserve, the status quo.~~

~~__ At any hearing on a motion for an emergency abatement order, the city shall have the burden of proving that there are reasonable grounds to believe that a chronic offense occurred in or on the parcel and, in the case of an emergency order granted without notice to the party-respondent, that such order is reasonably necessary to avoid some immediate, irreparable loss, damage or injury. In determining whether there are such reasonable grounds, the administrative hearing officer may consider whether an affirmative defense may exist under section 1.35.100 below.~~

~~__ At any hearing on a motion for an emergency abatement order or a motion to vacate or modify an emergency abatement order, the administrative hearing officer shall temper the rules of evidence and admit hearsay evidence unless the administrative hearing officer finds that such evidence is not reasonably reliable and trustworthy. The administrative hearing officer may also consider the facts alleged in the verified complaint or in any affidavit submitted in support of the complaint or motion for an emergency abatement order.~~

~~__ Permanent abatement orders. Where the existence of a chronic offense is established in a civil action under this chapter after a final hearing on the merits, the administrative hearing officer shall enter a permanent abatement order requiring the party-respondent to abate the chronic offense and take specific steps to prevent the same and other chronic offenses from occurring or recurring on the parcel or in using the parcel~~

~~(Code 1994, § 1.35.080; Ord. 6, 2009 §2)~~

~~1.35.090. Motion to vacate or modify emergency abatement orders.~~

~~__ At any time an emergency abatement order is in effect, any party-respondent or any person holding any legal or equitable interest in any parcel governed by such an order may file a motion to vacate or modify said order. Any motion filed under this subsection shall state specifically the factual and legal grounds upon which it is based, and only those grounds may be considered at the hearing. The administrative hearing officer shall vacate the order if he finds by a preponderance of the evidence that there are no reasonable grounds to believe that a chronic offense was committed in or on the parcel or if the administrative hearing officer believes that the conditions required by subsection 1.35.080(d)(2) no longer exist. The administrative hearing officer may modify the order if he finds by a preponderance of the evidence that such modification will not be detrimental to the public interest and is appropriate, considering the nature and extent of the separate violations.~~

~~The administrative hearing officer shall not grant a continuance of any hearing set under this section unless all the parties so stipulate.~~

~~If all parties so stipulate, the administrative hearing officer may order the trial on the merits to be advanced and tried with the hearing on these motions~~

~~(Code 1994, § 1.35.090; Ord. 6, 2009 §2)~~

Sec. 1-296. Affirmative defenses.

~~If a person named as a party respondent is the owner of a parcel of real property and is leasing the parcel to one or more tenants, or the person named has been hired by the owner of the parcel to manage and lease the parcel, and the separate violations which constitute the alleged chronic offense were committed by one or more of the tenants or occupants of the parcel, it shall be a defense to an action under this article that said person has:~~

~~Evicted, or attempted to evict by commencing and pursuing with due diligence appropriate court proceedings, all of the tenants and occupants of the parcel that committed each of the separate violations that constitute the alleged chronic offense;~~

~~Considering the nature and extent of the separate violations, undertaken and pursued with due diligence reasonable means to avoid a recurrence of similar violations on the parcel by the present and future tenants or occupants of the parcel upon receiving written notice or otherwise becoming aware of the citations which led to convictions or liability concerning the tenant's behavior or condition of the property;~~

~~Not received notice or otherwise become aware of one of the chronic offense citations or convictions leading to the issuance of a chronic offense complaint under this chapter (notice under this subsection shall mean written or verbal notice of any kind); or~~

~~Self reported a violation pursuant to section 1.33.035 of this Title; however, such affirmative defense shall only be applicable to the particular violation that was self reported~~

If the subject parcel of real property or unit within a complex is leased and the public nuisance violations were committed by tenants or occupants of the parcel or unit, it shall be a defense to an action described in section 1-294, that the owner or agent of the subject parcel or unit has:

(1) Evicted, or attempted to evict by commencing and pursuing with due diligence appropriate court proceedings, all of the tenants or occupants who committed the public nuisance violations;

(2) Considering the nature and extent of the public nuisance violations, undertaken and pursued with due diligence reasonable means to avoid a recurrence of similar violations on the subject parcel or unit; or

(3) Self-referred pursuant to chapter 10 of this title; however, self-referral is only an affirmative defense if the violation reported is the same violation as the public nuisance violation.

(Code 1994, § 1.35.100; Ord. No. 6, 2009, § 2, 4-7-2009)

~~1.35.110. Supplementary remedies for chronic offenses.~~

~~In any action filed under the provisions of this chapter, in the event that any one of the parties fails, neglects or refuses to comply with an order of the administrative hearing officer, the administrative hearing officer may, upon the motion of the city, in addition to or in the alternative to the remedy set forth in section 1.35.170 of this chapter and the possibility of criminal prosecution, permit the city to enter upon the parcel of real property and abate the nuisance, take steps to prevent chronic offenses from occurring or perform other acts required of the respondent in the administrative hearing officer's orders~~

~~(Code 1994, § 1.20.110; Ord. 6, 2009 §2)~~

~~1.35.120. Stipulated alternative remedies.~~

~~The city and any party-respondent to an action under this chapter may voluntarily stipulate to orders and remedies, emergency or permanent, that are different from those provided in this chapter.~~

~~The administrative hearing officer may accept such stipulations for alternative remedies and may order~~

~~compliance therewith only when the responding parties admit some or all of the allegations set forth in the chronic offense property/chronic offender complaint~~

~~(Code 1994, § 1.35.020; Ord. 6, 2009 §2)~~

~~1.35.130. Remedies under other laws unaffected.~~

~~Nothing in this chapter shall be construed as:~~

~~— Limiting or forbidding the city or any other person from pursuing any other remedies available at law or in equity; or~~

~~— Requiring that evidence or property seized, confiscated, closed, forfeited or destroyed under other provisions of law be subjected to the special remedies and procedures provided in this chapter~~

~~(Code 1994, § 1.35.130; Ord. 6, 2009 §2)~~

Sec. 1-297. Limitation of actions.

Actions under this chapter shall be filed no later than 365 days after the last in the series of ~~acts constituting the chronic offense~~ public nuisance violations occurs. However, this limitation shall not be construed to ~~limit~~ prevent the introduction of evidence of ~~separate violations that occurred more than 365 days before the filing of the complaint for the purpose of establishing the existence of a chronic offense or when relevant to show~~ any public nuisance violations regardless of the date of occurrence at a hearing for the purpose of showing a pattern of conduct or for any other purpose.

(Code 1994, § 1.35.140; Ord. No. 6, 2009, § 2, 4-7-2009)

Sec. 1-298. Effect of property conveyance.

~~When title to a parcel is conveyed from one person to another, any separate violation existing at the time of the conveyance which could be used under this chapter to prove that a chronic offense exists with respect to such parcel, shall not be so used unless a reason for the conveyance was to avoid the parcel being declared a chronic offense under this chapter. It shall be a rebuttable presumption that a reason for the conveyance of the parcel was to avoid the parcel from being declared a chronic offense under this chapter if:~~

~~— The parcel was conveyed for less than fair market value;~~

~~— The parcel was conveyed to an entity controlled directly or indirectly by the person conveying the parcel; or~~

~~— The parcel was conveyed to a relative of the person conveying the parcel~~

When title to a parcel of real property or a unit within a complex is conveyed, any public nuisance violation existing at the time of the conveyance that could be used under this chapter to prove that the parcel or unit is a chronic violation property shall not be so used unless a reason for the conveyance was to avoid such declaration. Further, if a parcel or unit had been declared a chronic violation property prior to the time of the conveyance, it shall be removed from the database unless a reason for the conveyance was to obtain removal from the database. It shall be a rebuttable presumption that a reason for the conveyance was to avoid such declaration or obtain removal from the database if:

(1) The parcel or unit was conveyed for less than fair market value;

(2) The parcel or unit was conveyed to an entity controlled directly or indirectly by the person or entity conveying the parcel or unit; or

(3) The parcel or unit was conveyed to a relative of the person conveying the parcel or unit.

(Code 1994, § 1.35.150; Ord. No. 6, 2009, § 2, 4-7-2009)

~~1.35.160. Severability.~~

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

(Code 1994, § 1.35.160; Ord. 6, 2009 §2)

1.35.170. Failure to comply with orders of administrative hearing officer.

Failure to comply with any order issued by the administrative hearing officer shall constitute a criminal violation of this Code, and violators may be subject to prosecution in front of the municipal judge and be penalized pursuant to chapter 1.32 of this Title

(Code 1994, § 1.35.170; Ord. 6, 2009 §2)

Title 2

ADMINISTRATION AND GENERAL GOVERNMENT

CHAPTER 1. IN GENERAL

~~Chapter 2.06 Administrative Procedure~~

Sec. 2-1. Organization; supervision; authority.

(a) The administrative service of the city shall be divided into departments under the supervision of the city manager, as outlined in the city Charter and ordinances of the city.

(b) The city manager shall be responsible for and have the authority to initiate proceedings in the municipal court or before the administrative hearing officer to sanction persons who violate provisions of this Code. The city manager may designate department heads or other city employees to act on his behalf to fulfill this responsibility and authority.

(c) The city manager shall designate certain employees to enforce compliance with the city Charter and ordinances of the city. All such employees authorized city personnel shall be uniformed and readily identifiable as ~~a~~ city employees ~~enforcement officer~~.

(Prior Code, § 2-14; Code 1994, § 2.06.010; Ord. No. 42, 2003, § 1, 6-3-2003; Ord. No. 48, 2006, § 2, 10-17-2006)

Sec. 2-2. Records; responsibilities; procedures.

(a) Preservation. Each department head shall be held responsible for the preservation of all permanent and nonpermanent public records under his jurisdiction for the requisite retention period and shall ensure that such records are readable and accessible as provided by law. However, the foregoing provision shall not be construed as prohibiting department heads from cooperating with centralized efforts to use technological or other means for the management of such public records to the extent that resources are available for that purpose.

(b) If any department head desires to destroy any obsolete public record which he feels is not of a permanent nature, he shall first obtain specific authorization from the city manager, and that authorization shall be given if the city manager determines that the public record in question is obsolete and not of a permanent nature. In making that determination, the city manager shall consider the retention periods set forth in the city's officially adopted records retention schedule.

(c) As used in this section, the term "public records" refers to all written material pertaining to city business, including, but not limited to, contract documents, reports, correspondence, invoices, minutes and interdepartmental memorandums, as well as all public documents such as ordinances and resolutions.

(Prior Code, § 2-13(a); Code 1994, § 2.06.020; Ord. No. 46, 2012, § 1, 12-18-2012)

Secs. 2-3--2-22. Reserved.

CHAPTER 2. ELECTIONS

ARTICLE I. GENERALLY

Sec. 2-23. Election codes adopted.

(a) The city adopts by reference the Colorado Municipal Election Code of 1965 (C.R.S. title 31, art. 10, hereinafter "municipal election code"), with all subsequent supplements thereto.

(b) In accordance with the municipal election code, the city hereby adopts by reference the Uniform Election Code of 1992 (C.R.S. title 1, arts. 1—13, hereinafter "uniform election code"), with all subsequent supplements thereto, in lieu of the municipal election code, for the purpose of participating in any coordinated election with the county which is conducted by the county clerk and recorder.

(c) The city adopts by reference the Colorado Mail Ballot Election Act (C.R.S. title 1, art. 7.5, hereinafter "Mail Ballot Election Act"), with all subsequent supplements thereto, for the purpose of conducting mail ballot elections, except that the city clerk shall not be required to obtain approval from the secretary of state for a mail ballot plan.

(d) The city council shall, by motion, select the election code/act to be used in any general or special election, and shall direct the city clerk to follow the procedures set forth in the selected election code/act.

(e) Upon selection of one of the codes/acts contained in this section, the selected code/act provisions shall be followed exclusively and shall supersede any and all conflicting provisions of any other election code/act.

(f) Nothing contained in this section shall supersede the provisions of the city Charter, as amended. In the event of conflict between the city Charter and any selected election code/act, the city Charter shall supersede only the conflicting provisions of the selected code/act, and the remaining provisions of the selected code/act shall remain in full force and effect.

(Code 1994, § 2.02.030; Ord. No. 24, 1990, § 1, 5-1-1990; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-24. Write-in votes for municipal office candidates.

No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the city clerk, by the person whose name is written in, prior to 20 days before the day of election indicating that such person desires the office and is qualified to assume the duties of that office if elected.

(Code 1994, § 2.02.040; Ord. No. 66, 1981, § 1, 10-6-1981; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-25. Election costs.

The costs of a municipal election shall be paid by the city except as follows:

(1) In the case of elections held pursuant to section 14-4(f) or 14-4(i) of the city Charter regarding unresolved collective bargaining issues.

(2) In the case of elections held pursuant to section 1-7 of the city Charter regarding detachment from the city by any owner or owners from the city. If such question of detachment is the sole ballot content for the city, said owner or owners of the property proposed to be detached shall pay the expense of the election as provided by the Charter. If such question of detachment shares the city ballot, said owner or owners of the property proposed to be detached shall pay one-half of the expense of the election.

(Code 1994, § 2.02.050; Ord. No. 24, 1990 § 2(part); Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-26. Scheduling of runoff elections.

In any election in which a runoff is necessary, such runoff election shall be held on the second Tuesday of the next month following the general election.

(Prior Code, § 10-5(a); Code 1994, § 2.02.060; Ord. No. 64, 1982, § 2, 9-21-1982; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-27. Conduct of runoff elections.

The runoff election shall be conducted as nearly as practicable in the same manner as regular elections, and the city council shall determine the method of election. The same election judges and other election officials appointed for the general election shall serve, to the extent practical, for the runoff election without further action, notice or publication by the city council or the city clerk.

(Prior Code, § 10-5(b); Code 1994, § 2.02.070; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-28. Penalties for election offenses.

Any person violating the provisions of this chapter or the election codes, as adopted by the city, shall be subject to penalties provided for in chapter 9 of title 1 of this Code.

(Code 1994, § 2.02.080; Ord. No. 24, 1990, § 2(part), 5-1-1990; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Secs. 2-29--2-59. Reserved.

ARTICLE II. ~~RESERVED~~ WARDS AND PRECINCTS

Sec. 2-60. Election wards established.

(a) The city is divided into four election wards, and the boundaries thereof are fixed, determined and established as follows:

(1) Ward One shall be and include all that part of the city lying north and east of the line described as follows: commencing at the intersection of the east city limit boundary line with the centerline of East Sixteenth Street; thence west along said centerline to the centerline of Twenty-third Avenue; thence south along said centerline to the centerline of Twentieth Street; thence west along said centerline to the centerline of Thirty-fifth Avenue; thence north along said centerline to the centerline of U.S. Highway 34 Business (Tenth Street); thence east along said centerline to the centerline of Twenty-eighth Avenue; thence north along said centerline to the centerline of Fourth Street; thence east along said centerline to the centerline of Twenty-third Avenue; thence north along said centerline to the north city limit boundary line.

(2) Ward Two shall be and include all that part of the city lying south and east of the line described as follows: commencing at the intersection of the east city limit boundary line with the centerline of East Sixteenth Street; thence west along said centerline to the centerline of Twenty-third Avenue; thence south along said centerline to the centerline of U.S. Highway 34 Bypass; thence east along said centerline to the centerline of Seventeenth Avenue; thence south along said centerline to the south city limit boundary line.

(3) Ward Three shall be and include all that part of the city lying south and west of the line described as follows: commencing at the intersection of the west city limit boundary with the centerline of U.S. Highway 34; thence east along said centerline to the centerline of U.S. Highway 34 Bypass; thence east on said centerline to the centerline of Ninety-fifth Avenue; thence north along said centerline to the centerline of Twentieth Street; thence east along said centerline to the southerly extension of the east boundary line of ~~Hiland~~ Highland Park, a subdivision of the city, said line also being the west boundary of the Aims Community College Campus; thence north along said line to the northeast corner of The Second Replat of ~~Hiland~~ Highland Knolls P.U.D., a subdivision of the city, said point also being in the northwest corner of the Aims Community College Campus; thence easterly along the south boundary line of Country Club West fourth Filing, a subdivision of the city, to the southeast corner of said subdivision; thence north along the east boundary line of Country Club West fourth Filing, to the Center Quarter corner of section 10, Township 5 North, Range 66 West of the 6th P.M., City of Greeley, County of Weld, State of Colorado; thence along the south boundary of Country Club West, a subdivision of the city, and the easterly extension of said south boundary, to the centerline of Forty-seventh Avenue; thence north along said centerline to the centerline of U.S. Highway 34 Business (Tenth Street); thence east along said centerline to the centerline of Thirty-fifth Avenue; thence south along said centerline to the centerline of Twentieth Street; thence east along said centerline to the centerline of Twenty-third Avenue; thence south along said centerline to the centerline of U.S. Highway 34 Bypass; thence east along said centerline to the centerline of Seventeenth Avenue; thence south along said centerline to the south city limit boundary line.

(4) Ward Four shall be and include all that part of the city lying north and west of the line described as follows: commencing at the intersection of the west city limit boundary with the centerline of U.S. Highway 34; thence east along said centerline to the centerline of U.S. Highway 34 Bypass; thence east on said centerline to the centerline of Ninety-fifth Avenue; thence north along said centerline to the centerline of Twentieth Street; thence east along said centerline to the southerly extension of the east boundary line of ~~Hiland~~ Highland Park, a subdivision of the city, said line also being the west boundary of the Aims Community College Campus; thence north along said line to the northeast corner of The Second Replat of ~~Hiland~~ Highland Knolls P.U.D., a subdivision of the city, said point also being in the northwest corner of the Aims Community College Campus; thence easterly along the south boundary line of Country Club West fourth Filing, a subdivision of the City of Greeley, to the southeast corner of said subdivision; thence north along the west boundary line of Country Club West fourth Filing, to the

Center Quarter corner of section 10, Township 5 North, Range 66 West of the 6th P.M., City of Greeley, County of Weld, State of Colorado; thence along the south boundary of Country Club West, a subdivision of the city, and the easterly extension of said south boundary, to the centerline of Forty-seventh Avenue; thence north along said centerline to the centerline of U.S. Highway 34 Business (Tenth Street); thence east along said centerline to the centerline of Twenty-eighth Avenue; thence north along said centerline to the centerline of Fourth Street; thence east along said centerline to the centerline of Twenty-third Avenue; thence north along said centerline to the south city limit boundary line.

(b) The ordinance codified in this section shall become effective May 6, 2012.

(Prior Code, § 10-1; Code 1994, § 2.02.010; Ord. No. 76, 1980, § 2, 10-21-1980; Ord. No. 57, 1981, § 1, 7-21-1981; Ord. No. 12, 1993, § 1, 3-6-1993; Ord. No. 13, 1993, §§ 1, 2, 3-6-1993; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 9, 2003, § 1, 2-4-2003; Ord. No. 46, 2005, § 1, 8-2-2005; Ord. No. 16, 2012, §§ 1, 2, 5-1-2012)

Sec. 2-61. Ward precincts.

Each ward shall have the same number of precincts, and the same precinct boundaries, as nearly as possible, as established or hereafter established for state and county elections.

(Prior Code, § 10-2; Code 1994, § 2.02.020; Ord. No. 12, 1993, § 2, 3-6-1993; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 9, 2003, § 1, 2-4-2003; Ord. No. 46, 2005, § 1, 8-2-2005)

Secs. 2-62--2-80. Reserved.

ARTICLE III. INITIATIVE AND REFERENDUM

Sec. 2-81. Intent.

It is the intention to set forth in this article the procedures for exercising the initiative and referendum powers reserved to the qualified electors of the city.

(Prior Code, § 10-14; Code 1994, § 2.02.170; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-82. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ballot title means the language that is printed on the ballot that is comprised of the submission clause and the title.

Final determination of petition sufficiency means the date following passage of the period of time within which a protest must be filed pursuant to section 2-89, or the date on which any protest filed pursuant to section 2-89 results in a finding of sufficiency, whichever is later.

Petition section means the stapled or otherwise bound package of documents described in section 2-85.

Submission clause means the language that is attached to the title to form a question that can be answered by "yes" or "no."

Summary means a condensed statement as to the intent of the initiative measure.

Title means a brief statement that fairly and accurately represents the true intent and meaning of the proposed initiative or referendum.

(Code 1994, § 2.02.180; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-83. Circulation and filing of initiative petition; city council action.

(a) One or more electors may begin the initiative process by filing with the city clerk a written notice of intent to circulate an initiative petition. Such notice shall include a statement as to whether a special election is requested, the full text of the proposed initiative in ordinance form, and designate by name and mailing address two persons to serve as petition representatives in all matters affecting the petition and to whom all notices or information concerning the petition shall be mailed.

(b) Upon receipt of a written notice on intent to circulate an initiative petition, the city clerk shall, within ten

days, prepare and certify a petition form for circulation and designate and fix a title, submission clause and summary to the petition and state whether a special election is requested. The summary shall be true and impartial and shall not be an argument, or likely to create prejudice, either for or against the measure.

(c) The initiative petition, signed by qualified electors equal in number to ten percent of the total vote cast in the last general city election, shall be filed with the city clerk no more than 60 days after the city clerk's certification of the form for petition circulation and no less than 90 days prior to the next regular city election if a special election is not requested through the initiative petition.

(d) Upon presentation of an initiative petition certified as to sufficiency by the city clerk, the city council shall either pass the proposed ordinance within 30 days without alterations or submit such proposed measure to the qualified electors of the city, as provided by the city Charter.

(1) The proposed ordinance shall be published in like manner as other proposed ordinances whether it is passed by city council or referred to the electors.

(2) The text of a successful initiative measure shall be published in full after the election.

(e) An initiative petition may be withdrawn at any time prior to council's action to either pass the proposed ordinance or submit such proposed measure to the qualified electors of the city by filing with the city clerk a written request for withdrawal signed by the petition representatives designated in the petition as representing the signers on matters affecting the petition. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(Prior Code, § 10-15(a); Code 1994, § 2.02.190; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005; Ord. No. 39, 2009, § 1, 8-18-2009)

Sec. 2-84. Circulation and filing of referendum petition; city council action.

(a) One or more electors may begin the referendum process by filing with the city clerk a written notice of protest against the going into effect of a particular ordinance and an intent to circulate a referendum petition. Such notice shall designate by name and mailing address two persons to serve as petition representatives in all matters affecting the petition and to whom all notices or information concerning the petition shall be mailed.

(b) Upon receipt of a written notice of protest and an intent to circulate a referendum petition, the city clerk shall within five days prepare and certify a petition form for circulation and designate and fix a title, submission clause and summary to the petition. The summary shall be true and impartial and shall not be an argument, or likely to create prejudice, either for or against the measure.

(c) The referendum petition, signed by qualified electors equal in number to ten percent of the total vote cast in the last general city election, shall be filed with the city clerk within 30 days after the final passage of the ordinance to which the referendum is applicable.

(d) Upon presentation of a referendum petition certified as to sufficiency by the city clerk, the ordinance shall be suspended and reconsidered by the city council. If the ordinance is not repealed in its entirety, the city council shall submit the same to a vote of the qualified electors of the city at a special election called therefor unless a general or special election is to occur within 90 days thereafter, in which event it shall be submitted at that election.

(Prior Code, § 10-16(a); Code 1994, § 2.02.200; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-85. Form of petition sections.

(a) Each petition section shall be printed in a form consistent with the requirements of this article and approved and certified by the city clerk and contain no extraneous material.

(b) Each petition section shall include, with headings or introductory phrases as prescribed by the city clerk:

(1) The first page shall be the city clerk's certification of the petition section.

(2) The second page and third page, if necessary, shall include:

a. A heading such as "Initiative Petition" or "Referendum Petition;"

b. Be addressed to the city council, such as "To the city council of the City of Greeley, Colorado;"

c. A general statement describing the directive of the petition signers, such as, "The undersigned registered electors of the City of Greeley, Colorado, hereby petition to initiate the ordinance set forth hereafter and petition that the same be adopted by the city council without alterations or place the proposed ordinance on the ballot..." or "The undersigned registered electors of the City of Greeley, Colorado, hereby petition that the city council repeal the ordinance set forth hereafter in its entirety or place the matter on the ballot...;"

d. A statement as to whether a special election is requested;

e. The city clerk's summary, submission clause and title; and

f. A subheading, such as "Petition Representatives," followed by the names and addresses of the petition representatives.

(3) The next pages shall be the full text of the proposed initiated ordinance or complete ordinance that is the subject of a referendum petition.

(4) Following the full text of the ordinance shall be the signature pages to consist of a warning and notice to petition signers at the top of each page, the summary, and ruled lines numbered consecutively for registered electors' information and signatures. If a petition section contains multiple signature pages, all signature lines shall be numbered consecutively, from the first signature page through the last. The warning and notice shall be as follows:

Warning: It is against the law:

For any person to sign any initiative or referendum petition with any name other than the person's own name or to knowingly sign more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

Do not sign this petition unless you are a registered elector of the City of Greeley, Colorado, and eligible to vote on this measure.

To be a registered elector of the City of Greeley, you must be a resident of Greeley and registered to vote.

Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning.

(5) Following the signature pages of each petition section, there shall be attached a signed, notarized and dated affidavit executed by the person who circulated the petition section, which shall include the following:

a. The circulator's printed name, the address at which the circulator resides, including the street name and number, the municipality, and the date the circulator signed the affidavit;

b. That the circulator has read and understands the laws governing the circulation of petitions;

c. That the circulator was a resident of the city at the time the section of the petition was circulated and signed by the listed electors;

d. That the circulator circulated the section of the petition;

e. That each signature thereon was affixed in the circulator's presence;

f. That each signature thereon is the signature of the person whose name it purports to be;

g. That, to the best of the circulator's knowledge and belief, each of the persons signing the petition section was, at the time of signing, a registered elector; and

h. That the circulator has not paid or will not in the future pay and that the circulator believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the petition.

(c) The clerk shall not accept for filing any section of a petition that does not have attached thereto the

notarized affidavit required by this section. Any disassembly of a section of the petition that has the effect of separating the affidavit from the signature pages shall render that section of the petition invalid and of no force and effect.

(d) Any signature added to a section of a petition after the affidavit has been executed shall be invalid.

(e) All sections of any petition shall be prenumbered serially.

(f) Any petition section that fails to conform to the requirements of this article or that is circulated in a manner other than that permitted by this article shall be invalid.

(Code 1994, § 2.02.210; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-86. Circulators; requirements.

The circulation of any petition section other than personally by a circulator is prohibited. No section of a petition for any initiative or referendum measure shall be circulated by any person who is not a resident of the city and at least 18 years of age at the time the section is circulated.

(Code 1994, § 2.02.220; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-87. Signatures.

Any initiative or referendum petition shall be signed only by registered electors who are eligible to vote on the measure. Each registered elector shall sign the elector's own signature and shall print the elector's name, the address at which the elector resides, including the street number and name, the city, and the date of signing. Each registered elector signing a petition shall be encouraged by the circulator of the petition to sign the petition in ink. In the event a registered elector is physically disabled or is illiterate and wishes to sign the petition, the elector shall sign or make the elector's mark in the space so provided. Any person, but not a circulator, may assist the disabled or illiterate elector in completing the remaining information required by this section. The person providing assistance shall sign the person's own name and address and shall state that such assistance was given to the disabled or illiterate elector.

(Code 1994, § 2.02.230; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-88. Signature verification; amendment; statement of sufficiency or insufficiency.

(a) The clerk shall inspect timely filed initiative or referendum petitions and the attached affidavits, and may do so by examining the information on signature lines for patent defects, by comparing the information on signature lines against a list of registered electors provided by the county clerk and recorder, or by other reasonable means.

(b) After examining the petition, the clerk shall issue to the city council and petition representatives an initial statement as to whether a sufficient number of valid signatures have been submitted.

(c) The city clerk's initial statement of sufficiency or insufficiency shall be based upon a review of the petition to find whether signatures of individuals are insufficient in the following categories:

(1) Address shown by signer not located within the city limits of the city;

(2) Any signature appearing on the petition more than once, in which event all signatures of said individual shall be deleted except one;

(3) More than one individual signature on a signature line, in which event the line shall count as one;

(4) Signature lines containing incomplete information or information which was not completed by the elector or a person qualified to assist the elector shall not be counted;

(5) Signatures of individuals who are not registered electors in the city;

(6) Illegible signatures;

(7) Invalid signatures pursuant to section 2-85.

(d) The initial statement of sufficiency or insufficiency shall be issued no later than 15 calendar days after the petition has been filed. If the clerk fails to issue a statement within 15 calendar days, the petition shall be deemed sufficient.

(e) If the petition is insufficient, such petition may be amended within five calendar days from the serving of the initial statement of insufficiency to petition representatives by securing additional signatures or curing, if possible, the deficiencies found in the initial petition. The city clerk's review of the amended petition shall be according to subsection (c) of this section.

(f) After the city clerk has completed the final sufficiency review of the petitions, the following procedures shall apply:

(1) For petitions found to contain an insufficient number of valid signatures, and against which no protest has been filed, the city clerk shall mail a written notice of insufficiency, summarizing the grounds for the decision, to the representatives of the petitioners. The decision of the city clerk concerning insufficiency shall be a final decision from which an appeal may be made to the county district court.

(2) For petitions found insufficient, and against which a protest has been filed; or for petitions found to be sufficient, but against which a protest has been filed, the provisions of section 2-89 shall apply.

(3) For petitions found sufficient, and against which no protest has been filed, the city clerk shall forward the petition to city council for consideration pursuant to Charter section 9-2 or 9-3.

(g) Notwithstanding the protest provisions, the final determination of petition sufficiency shall be issued no later than 30 calendar days after the petition has been filed.

(Code 1994, § 2.02.240; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-89. Protest.

(a) Within 15 calendar days after an initiative or referendum petition is filed, a protest in writing under oath may be filed with the city clerk by any registered elector of the city, setting forth specifically the grounds for such protest. The grounds for protest may include, but shall not be limited to, the failure of any portion of a petition or circulator affidavit to meet the requirements of this article. No signature may be challenged that is not identified in the protest by section and line number. The clerk shall mail a copy of such protest to the petition representatives and to the protester, together with a notice fixing a time for hearing such protest that is not less than five or more than ten days after such notice is mailed.

(b) Individuals may request through the county clerk and recorder a list of the registered electors in the municipality.

(c) All records and hearings shall be public under this section and all testimony shall be under oath. The city clerk shall serve as hearing officer unless some other person is designated by city council as the hearing officer. The hearing officer shall have the power to issue subpoenas and compel the attendance of witnesses. The hearing shall be summary and not subject to delay and shall be concluded within 25 days after the petition is filed. No later than five days after the conclusion of the hearing, the hearing officer shall issue a written determination of whether the petition is sufficient or not sufficient. If the hearing officer determines that a petition is not sufficient, the officer shall identify those portions of the petition that are not sufficient and the reasons therefor. The result of the hearing shall be forthwith certified to the protester and petition representatives. The determination as to petition sufficiency may be reviewed by the county district court upon application of the protester, the petition representatives or the city.

(d) Upon timely appeal to the county district court of any decision of the city clerk, all proceedings leading to any election upon any initiative or referendum petition shall be suspended until final disposition of such review. If an election is thereafter required to be held, the period of time required for judicial review shall not be included in the computation of time periods under this chapter, and any such periods shall be extended by the time required for such review and appeal.

(Code 1994, § 2.02.250; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-90. Receiving money to circulate petitions; filing.

The proponents of the petition shall file with the city clerk a report disclosing the amount paid to each circulator. The filing shall be made at the same time the petition is filed with the city clerk.

(Code 1994, § 2.02.260; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005; Ord. No. 13, 2013, § 2, 5-21-

2013)

Sec. 2-91. Unlawful acts.

(a) It is unlawful:

(1) For any person willfully and knowingly to circulate or cause to be circulated or sign or procure to be signed any petition bearing the name, device or motto of any person, organization, association, league or political party, or purporting in any way to be endorsed, approved or submitted by any person, organization, association, league or political party, without the written consent, approval and authorization of the person, organization, association, league or political party;

(2) For any person to sign any name other than the person's own name to any petition or knowingly to sign the person's name more than once for the same measure at one election;

(3) For any person knowingly to sign any petition relating to an initiative or referendum in a municipality who is not a registered elector of that municipality at the time of signing the petition;

(4) For any person to sign any affidavit as circulator without knowing or reasonably believing the statements made in the affidavit to be true;

(5) For any person to certify that an affidavit attached to a petition was subscribed or sworn to before the person unless it was so subscribed and sworn to before the person and unless the person so certifying is duly qualified under the state laws to administer an oath;

(6) For any officer or person to do willfully, or with another or others conspire, or agree, or confederate to do, any act that hinders, delays or in any way interferes with the calling, holding or conducting of any election permitted under the initiative and referendum powers reserved by the people in section 1 of article V of the state constitution or with the registering of electors therefor;

(7) For any officer to do willfully any act that shall confuse or tend to confuse the issues submitted or proposed to be submitted at any election or refuse to submit any petition in the form presented for submission at any election;

(8) For any officer or person to violate willfully any provision of this article.

(b) Any person commits a violation subject to penalties listed under chapter 9 of title 1 of this Code who:

(1) Willfully destroys, defaces, mutilates or suppresses any initiative or referendum petition;

(2) Willfully neglects to file or delays the delivery of the initiative or referendum petition;

(3) Conceals or removes any initiative or referendum petition from the possession of the person authorized by law to have custody of the petition;

(4) Adds, amends, alters or in any way changes the information on the petition as provided by the elector; or

(5) Aids, counsels, procures or assists any person in doing any of such acts.

(c) This section shall not preclude a circulator from striking a complete line on the petition if the circulator believes the line to be invalid.

(Code 1994, § 2.02.270; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-92. Enforcement.

Any person may file with the city attorney an affidavit stating the name of any person who has violated any of the provisions of this article and stating the facts that constitute the alleged offense. Upon the filing of such affidavit, the city attorney shall forthwith investigate and, if reasonable grounds appear therefor, the attorney shall prosecute the same.

(Code 1994, § 2.02.280; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-93. Retention of petitions.

After a period of three years from the time of submission of the petitions to the clerk, the clerk may destroy

the petitions.

(Code 1994, § 2.02.290; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Secs. 2-94--2-114. Reserved.

ARTICLE IV. RECALL, INTENT; APPLICABILITY

Sec. 2-115. In general.

Pursuant to section 10-1 of the Charter, further procedures for the recall from office are hereby provided within this article. The provisions of article III of this chapter 2 shall apply with the following modifications.

(Code 1994, § 2.02.300; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-116. Circulation and filing recall petition; city council action.

(a) One or more electors may begin the recall process by filing with the city clerk a written notice of intent to circulate a recall petition which demands the election of a successor to the official named in the petition, and designates by name and mailing address two persons to serve as petition representatives in all matters affecting the petition and to whom all notices or information concerning the petition shall be mailed. A separate notice of intent shall be filed for each officer sought to be recalled. Such notice shall include a general statement consisting of 200 words or less stating the reasons for the recall.

(b) Upon receipt of a written notice of intent to circulate a recall petition, the city clerk shall, within two days, notify the affected officer by certified mail. Within ten days of receipt of a written notice of intent to circulate a recall petition, the city clerk shall prepare and certify a petition form for circulation.

(c) The general statement provided for in subsection (a) of this section is for the information of the electors who shall be the sole and exclusive judges of the legality, reasonableness and sufficiency of the reasons for the recall and shall not be open to review.

(d) The recall petition, signed by qualified electors equal in number to 25 percent of the entire vote cast at the preceding general municipal election for all candidates for the position which the incumbent sought to be recalled occupies, shall be filed with the city clerk no more than 60 days after the city clerk's certification of the form for petition circulation.

(e) After one recall petition and election, no further petition shall be filed against the same officer during the term for which the officer was elected, unless the petitioners signing said petition shall equal 50 percent of the votes cast at the last preceding general election for all of the candidates for the office held by such officer.

(f) The city clerk shall without delay, upon certification as to the sufficiency of the recall petition, notify the elected official who is sought to be removed. If the elected official sought to be removed does not resign within five days thereafter, the city council shall submit the recall question to a vote of the qualified electors of the city at a special election called therefor unless a general or special election is to occur within 90 days thereafter, in which event it shall be submitted at that election.

(Prior Code, § 10-17(a); Code 1994, § 2.02.310; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-117. Form of recall petition sections.

(a) Each petition section shall be printed in a form consistent with the requirements of this article and approved and certified by the city clerk and contain no extraneous material.

(b) Each petition section shall include, with headings or introductory phrases as prescribed by the city clerk:

(1) The first page shall be the city clerk's certification of the petition section.

(2) The second page, and third page, if necessary, shall include:

a. A heading such as "Petition to Recall (name of person sought to be recalled) from the office of (title of office);"

b. A subheading, such as "For the following reason(s)," followed by the general statement provided by the petition representatives;

c. Be addressed to the city council, such as "To the city council of the City of Greeley, Colorado;"

d. A general statement describing the directive of the petition signers, such as "The undersigned registered electors of the City of Greeley, Colorado, hereby petition that the above-named person shall be recalled and removed from the office listed above and demand the election of a successor to the office named;" and

e. A subheading such as, "Petition representatives" followed by the names and addresses of the petition representatives.

(3) The next pages shall be the signature pages to consist of a warning and notice to petition signers at the top of each page, the general statement of reasons provided by the petition representatives, and ruled lines numbered consecutively for registered electors' information and signatures. If a petition section contains multiple signature pages, all signature lines shall be numbered consecutively, from the first signature page through the last. The warning and notice shall be as follows:

Warning: It is against the law:

For any person to sign any recall petition with any name other than the person's own name or to knowingly sign more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

Do not sign this petition unless you are a registered elector of the City of Greeley, Colorado, and eligible to vote on this measure.

To be a registered elector of the City of Greeley, you must be a resident of Greeley and registered to vote.

Do not sign this petition unless you have read or have had read to you the proposed recall measure and understand its meaning.

(4) Following the signature pages of each petition section, there shall be attached a signed, notarized and dated affidavit executed by the person who circulated the petition section, which shall include the following:

a. The circulator's printed name, the address at which the circulator resides, including the street name and number, the municipality and the date the circulator signed the affidavit;

b. That the circulator has read and understands the laws governing the circulation of petitions;

c. That the circulator was a resident of the city at the time the section of the petition was circulated and signed by the listed electors;

d. That the circulator circulated the section of the petition;

e. That each signature thereon was affixed in the circulator's presence;

f. That each signature thereon is the signature of the person whose name it purports to be;

g. That, to the best of the circulator's knowledge and belief, each of the persons signing the petition section was, at the time of signing, a registered elector; and

h. That the circulator has not paid or will not in the future pay and that the circulator believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the petition.

(c) The city clerk shall not accept for filing any section of a petition that does not have attached thereto the notarized affidavit required by this section. Any disassembly of a section of the petition that has the effect of separating the affidavit from the signature pages shall render that section of the petition invalid and of no force and effect.

(d) Any signature added to a section of a petition after the affidavit has been executed shall be invalid.

(e) All sections of any petition shall be prenumbered serially.

(f) Any petition section that fails to conform to the requirements of this article or that is circulated in a manner other than that permitted by this article shall be invalid.

(Prior Code, § 10-17(b); Code 1994, § 2.02.320; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-118. Resignation.

If an elected official whose recall is sought offers a resignation, it shall be accepted and the vacancy caused by the resignation shall be filled as provided by law. The person appointed to fill the vacancy caused by the resignation shall hold the office only until the person elected at the recall election is qualified.

(Code 1994, § 2.02.330; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-119. Call of election.

A recall election shall be for the dual purposes of voting on the recall of the officer sought to be removed and the election of a successor.

(Prior Code, § 10-19(a); Code 1994, § 2.02.340; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-120. Ballots.

There shall be printed on the official ballot, as to every officer whose recall is to be voted on, the terms: "Shall _____ be recalled from the office of _____?" Following the question shall be the terms "Yes" and "No," on separate lines, in which the voter may indicate a vote for or against such recall. The ballot also shall contain the general statement submitted by the petition representative consisting of 200 words or less stating the reasons set forth in the petition for demanding the elected official's recall. If desired by the official sought to be recalled, the official ballot shall also contain a statement of justification of the official's course in conduct in 200 words or less.

(Prior Code, § 10-19(b); Code 1994, § 2.02.350; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-121. Effect of vote.

If the majority of those acting on a recall question vote "No," the incumbent shall remain in office; if a majority vote "Yes," the incumbent is removed from office.

(Prior Code, § 10-20(a); Code 1994, § 2.02.360; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-122. Action of incumbent.

Unless the incumbent has resigned, the incumbent shall continue to perform the duties of office until the recall election. If not then recalled, the incumbent shall continue in the office as if no recall election has been held; but if at such election the incumbent is recalled, the incumbent shall forthwith vacate the office. If the incumbent resigns or is recalled at such election, the vacancy resulting shall be filled as provided by law.

(Prior Code, § 10-20(b); Code 1994, § 2.02.370; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-123. Nomination of successor.

A candidate to succeed the official sought to be recalled shall meet the qualifications of a candidate and shall be nominated as provided by this chapter. Nomination petitions and affidavits of intent to run as a write-in candidate shall be filed no later than 15 days after the date that the recall petition is found to be sufficient. The name of the official who was sought to be recalled shall not be eligible as a candidate in the election to fill any vacancy resulting from the recall election.

(Code 1994, § 2.02.380; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-124. Election of successor.

The election of a successor shall be held at the same time as the recall election. The names of those persons nominated as candidates to succeed the person sought to be recalled shall appear on the ballot; but no vote cast shall be counted for any candidate for the office unless the voter also voted for or against the recall of the person sought to be recalled. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for office.

(Code 1994, § 2.02.390; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Sec. 2-125. Cost of recall election.

(a) If at any recall election for a city elected official the incumbent whose recall is sought is not recalled, the city council shall authorize a resolution for repayment from the general fund of the city any money authorized to be repaid to the incumbent by this section which the incumbent actually expended as an expense of the election. In no event shall the sum repaid exceed $0.40 per voter, subject to a maximum repayment of $10,000.00.

(b) Authorized expenses shall include, but are not limited to, monies spent in challenging the sufficiency of the recall petition and in presenting to the electors the official position of the incumbent, including campaign literature, advertising and maintaining campaign headquarters.

(c) Unauthorized expenses shall include, but are not limited to, monies spent on challenges and court actions not pertaining to the sufficiency of the recall petitions; personal expenses for meals; lodging and mileage for the incumbent; costs of maintaining a campaign staff and associated expenses; reimbursement for expenses incurred by a campaign committee which has solicited contributions; reimbursement of any kind for employees in the incumbent's office; and all expenses incurred prior to the filing of the recall petition.

(d) The incumbent shall file a complete and detailed request for reimbursement within 60 days after the date of the recall election with the city council who shall then review the reimbursement request for appropriateness within 30 days after receipt of the request for reimbursement.

(Code 1994, § 2.02.400; Ord. No. 55, 1997, § 1, 9-2-1997; Ord. No. 46, 2005, § 1, 8-2-2005)

Secs. 2-126--2-148. Reserved.

CHAPTER 3. CITY COUNCIL

Sec. 2-149. Council terms of office.

~~Except for the filling of vacancies, pursuant to section 2-3 of the Charter, the mayor shall be elected for a term of two years and all councilmembers for a term of four years. The Mayor, two of the four council ward seats and one of the two council at-large seats shall be elected at every general municipal election. Vacancies, pursuant to section 2-5 of the Charter, are to be filled until the next general municipal election.~~

In addition to article II of the city Charter, concerning elections of councilmembers, in ~~For~~ any election at which both at-large council positions are available, there shall be one list of candidates on the ballot for the at-large positions with instructions to vote for two. The candidate receiving the highest vote total shall be awarded the term of four years and the candidate receiving the next highest vote total shall be awarded the term of two years.

(Ord. of 12-4-2018, § 1)

Sec. 2-150. Regular and special meetings; work sessions.

(a) Meetings and work sessions defined.

(1) Meetings of the city council are sessions held to consider public business and take formal action.

(2) Work sessions of the city council are sessions held to consider public business and take no formal action except:

a. A motion to conduct an executive session in conjunction with the work session; or

b. A motion to call a special city council meeting for the sole purpose of conducting an executive session.

(3) Town meetings of the city council are work sessions held throughout the city within each of the wards, generally on an annual basis, to provide an informal setting for community discussions.

(b) Regular meetings and regular work sessions of the city council are those that occur at established intervals, with the time and location to be set by resolution.

(1) The regular meetings of the city council shall be held on the first and third Tuesdays of each month.

(2) The regular work sessions of the city council shall be held on the second and fourth Tuesdays of each

month.

(3) By motion, the city council may from time to time alter the foregoing schedule by changing the day, hour or location of regular meetings or work sessions.

(c) Special meetings and special work sessions of the city council are those that occur at a time different from that of the regular meeting or work session and may be scheduled, no sooner than 24 hours from the time it is called, to consider items of business that require the immediate or special attention of the city council by either:

(1) Motion at a regular meeting; or

(2) The mayor and any three members of the city council, as evidenced by signatures on a notice and call of special meeting, and a notice to all members of the city council, personally served or left at his usual place of residence, by telephone or by electronic transmission by the city clerk.

(Prior Code 2-1, 2-2; Code 1994, § 2.04.010; Ord. No. 41, 2000; Ord. No. 17, 2002, § 1, 4-2-2002; Ord. No. 18, 2004, § 1, 4-20-2004; Ord. No. 27, 2004, § 1, 6-1-2004; Ord. No. 38, 2005, § 1, 7-5-2005; Ord. No. 06, 2008, § 1, 2-5-2008)

Sec. 2-151. Executive sessions.

(a) In accordance with C.R.S. section 24-6-402(4), upon the announcement by the chair of city council to the public of the topic for discussion in an executive session, including specific citation to the provisions of this subsection authorizing an executive session and identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized, along with the affirmative vote of two-thirds of the quorum present, city council may, after such announcement, hold an executive session at any regular or special meeting or any regular or special work session for the sole purpose of considering any of the following matters. However, no adoption of any proposed policy, position, resolution, rule, regulation or formal action, except the review, approval and amendment of the minutes of an executive session recorded pursuant to this section, shall occur at any executive session that is not open to the public:

(1) The purchase, acquisition, lease, transfer or sale of any real, personal or other property interest, except that no executive session shall be held for the purpose of concealing the fact that a member of the city council has a personal interest in such purchase, acquisition, lease, transfer or sale;

(2) Conferences with the city attorney for the purposes of receiving legal advice on specific legal questions; mere presence or participation of the city attorney at an executive session is not sufficient to satisfy the requirements of this subsection;

(3) Matters required to be kept confidential by federal or state law or rules and regulations. The city council shall announce the specific citation of the statutes or rules that are the basis for such confidentiality before holding the executive session;

(4) Specialized details of security arrangements or investigations;

(5) Determining positions relative to matters that may be subject to litigation, negotiations or developing strategy for litigation or negotiations and instructing negotiators;

(6) Personnel.

a. Personnel matters regarding the municipal judge, city attorney or city manager, unless the subject of the session has requested an open meeting, or if the personnel matter involves more than one of the above positions, and all of the employees have requested an open meeting.

b. The provisions of subsection (a) of this section shall not apply to discussions concerning any board or commission member, city council member, any elected official, or the appointment of a person to fill such office or the office of an elected official or to discussions of personnel policies that do not require the discussion of matters personal to particular employees.

(7) Consideration of any documents protected by the mandatory nondisclosure provisions of C.R.S. section 24-72-201, et seq., commonly known as the Open Records Act, except that all consideration of documents or records that are work product, as defined in the Colorado Open Records Act, Title 24, article 72, C.R.S., as amended from time to time, or that are subject to the governmental or deliberative process privilege shall occur in a public meeting unless an executive session is otherwise allowed

pursuant to this subsection.

(b) Minutes and discussion.

(1) Discussions that occur in an executive session shall be recorded in the same manner and media used to record the minutes of open meetings or by any form of electronic recording. Except as provided in subsection (b)(2) of this section, the minutes of an executive session shall reflect the specific citation to the state statute authorizing an executive session, the actual contents of the discussion during the session and a signed statement from the chair of the executive session attesting that any written minutes substantially reflect the substance of the discussions during the executive session. For the purposes of this subsection, "actual contents of the discussion" shall not be construed to require the minutes of an executive session to contain a verbatim transcript of the discussion during said executive session.

(2) If, in the opinion of the city attorney who is representing the city council and who is in attendance at the executive session, all or a portion of the discussion during the executive session constitutes a privileged attorney-client communication, no minutes shall be required to be kept of the part of the discussion that constitutes a privileged attorney-client communication. Any electronic recording of said executive session discussion shall reflect that no further minutes were kept of the discussion based on the opinion of the city attorney, as stated for the minutes during the executive session, that the discussion constitutes a privileged attorney-client communication. Any written minutes shall contain a signed statement from the city attorney representing the city council attesting that the portion of the executive session that was not recorded constituted a privileged attorney-client communication in the opinion of the attorney and a signed statement from the chair of the executive session attesting that the portion of the executive session that was not recorded was confined to the topic authorized for discussion in an executive session pursuant to subsection (a) of this section.

(3) No portion of the minutes of an executive session of city council or any local board or commission shall be open for public inspection or subject to discovery in any administrative or judicial proceeding, except upon the consent of the city council or local board or commission or as provided in C.R.S. section 24-6-402 or 24-72-204(5.5).

(4) The minutes of an executive session of city council taken pursuant to subsection (b)(1) of this section shall be retained by the city clerk for at least 90 days after the date of the executive session.

(c) The city clerk shall maintain a list of persons who, within the previous two years, have requested notification of all meetings or of meetings when certain specified policies will be discussed, and shall provide reasonable advance notification of such meetings; provided, however, that unintentional failure to provide such advance notice will not nullify actions taken at an otherwise properly published meeting.

(d) Any board or commission which has been established by city council may conduct executive sessions in compliance with the guidelines set forth in this chapter.

(e) This chapter does not apply to any chance meeting or social gathering at which discussion of public business is not the central purpose.

(Code 1994, § 2.04.020; Ord. No. 17, 2002, § 1, 4-2-2002; Ord. No. 27, 2004, § 1, 6-1-2004; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 2-152. Order of business.

At the hour appointed for meeting, the members shall be called to order by the mayor or, in his absence, by the mayor pro tem; and the city clerk shall proceed to call the roll, note the absentees and announce whether a quorum be present; if a quorum is present, the city council shall proceed with the business before it, as called by the mayor or the mayor pro tem.

(Prior Code, § 2-6; Code 1994, § 2.04.030)

Sec. 2-153. Robert's Rules of Order applied.

Where procedure is not specifically provided for in this chapter, Robert's Rules of Order shall be used.

(Prior Code, § 2-7; Code 1994, § 2.04.040)

Sec. 2-154. Amending or suspending rules.

The rules and order of business designated at sections 2-152 and 2-153 may be amended or suspended at any meeting only by a 2/3 vote of all the members elected to the city council.

(Prior Code, § 2-8; Code 1994, § 2.04.050)

Sec. 2-155. Quorum; penalty for nonattendance.

~~A majority shall constitute a quorum to do business at all meetings of the city council, but~~ In the absence of a quorum, a minority of councilmembers present may adjourn from time to time and compel the attendance of absent members by a fine not exceeding $10.00 for each offense.

(Prior Code, § 2-3; Code 1994, § 2.04.060)

Sec. 2-156. Compensation; mayor and members of city council.

(a) The mayor shall receive $1,500.00 per month and each councilmember shall receive $1,000.00 per month for each month served as a member of the city council. In the event the mayor or member of the city council serves for less than a full month, he shall receive the pro rata share of his monthly salary that would represent actual time served during that month.

(b) The mayor and members of city council, during their term as a member of city council, are herein authorized to participate at their own expense in any fringe benefit program available to city employees.

(c) The city council shall review the compensation of the mayor and members of city council at least once in every four-year period after the effective date of the ordinance from which this chapter is derived.

(Prior Code, § 2-4; Code 1994, § 2.04.070; Ord. No. 61, 1983, § 1, 10-18-1983; Ord. No. 22, 2004, § 1, 5-4-2004; Ord. No. 4, § 1, 1-17-2017)

Sec. 2-157. Addressing city council.

All petitions, memorials and remonstrances to the city council shall be in writing and shall be addressed to the Honorable Mayor and city council of the City of Greeley, State of Colorado.

(Prior Code, § 2-5; Code 1994, § 2.04.080)

Secs. 2-158--2-182. Reserved.

CHAPTER 4. CONTRACTS

Sec. 2-183. Authority.

The city may enter into contracts, agreements and leases which have either been authorized by the city council or which are consistent with policy established by city council in this chapter.

(Code 1994, § 2.07.010; Ord. No. 78, 1992, § 1(part), 8-18-1992; Ord. No. 23, 2013, § 2, 8-20-2013; Ord. No. 18, 2018 , § 1(exh. A), 4-3-2018)

Sec. 2-184. Approvals and signatures.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) *Financial obligation* means the duty of the city to provide money or something of value to another party, or to exchange something of value with another party.

(2) *Standard contract form* means a written contract or agreement that has been previously approved by the city attorney's office as a standard contract form and one that is subsequently used without substantive modification of any contract provision contained in such form. A non-standard contract is a contract that includes a substantive change to an approved standard contract.

(b) Conveyance of city-owned water, mineral and real property interests. All conveyances of city interests in water, mineral and real property rights, including leases of water, mineral, real property rights and improvements (but excluding annual leases of water rights not needed by the city for immediate use), shall be signed by the mayor

and attested by the city clerk.

(c) All contracts and agreements for financial obligations to which the city is a party shall require signatures as follows:

(1) For amounts up to and including $10,000.00, the signature of the employee designated by the department head of the department entering into the contract.

(2) For a standard contract form in amounts above $10,000.00, up to and including $50,000.00, the signature of the division manager or their designee of the department entering into the contract.

(3) For a standard contract form in the amounts above $50,000.00, up to and including $100,000.00, the signature of the department head or the department head's designee of the department entering into the contract.

(4) For a nonstandard contract form in amounts above $10,000.00, up to and including $100,000.00, the signature of the department head of the department entering into the contract or the department head's designee, and approval as to legal form by the city attorney.

(5) For standard and nonstandard contract forms in amounts above $100,000.00, approval as to substance by the city manager or their designee, approval as to legal form by the city attorney or his designee and review for availability of funds by the director of finance or his designee.

(Code 1994, § 2.07.020; Ord. No. 78, 1992, § 1(part), 8-18-1992; Ord. No. 14, 2002, § 1, 4-2-2002; Ord. No. 13, 2011, § 1, 4-19-2011; Ord. No. 23, 2013, § 2, 8-20-2013; Ord. No. 18, 2018 , §1(Exh. A), 4-3-2018)

Sec. 2-185. Bids.

When a competitive bid is required, the city manager shall approve and sign all contracts or agreements awarded by the city to any bidder other than the lowest responsible and responsive bidder.

(Code 1994, § 2.07.030; Ord. No. 78, 1992, § 1(part), 8-18-1992; Ord. No. 13, 2011, § 1, 4-19-2011; Ord. No. 23, 2013, § 2, 8-20-2013; Ord. 18, 2018 , § 1(exh. A), 4-3-2018)

Sec. 2-186. Intergovernmental agreements.

The city may enter into contracts with other governmental bodies to furnish governmental services and make charges for such services or enter into cooperative or joint activities with other governmental bodies. Approval of such agreements will be approved by city council resolution or ordinance authorizing the city manager or his designee to sign the agreement.

(Code 1994, § 2.07.040; Ord. No. 78, 1992, § 1(part), 8-18-1992; Ord. No. 13, 2011, § 1, 4-19-2011; Ord. No. 23, 2013, § 2, 8-20-2013; Ord. 18, 2018 , § 1(exh. A), 4-3-2018)

Secs. 2-187--2-210. Reserved.

CHAPTER 5. DEPARTMENTS

Sec. 2-211. Interdepartmental coordination.

It shall be the duty of every department, subject to such rules as the city manager may prescribe, to furnish to any other department such service, labor and material as may be needed by the head of such department. Any labor or material which may be furnished by any department for any other department shall be charged to the using department and credited to the furnishing department.

(Prior Code, § 2-13(b); Code 1994, § 2.06.030)

Sec. 2-212. Departmental reports and records.

Reports of the activities of each department shall be made to the city manager~~ at the end of each month~~. ~~A summary of all such reports shall be made by the city manager and submitted to the city council.~~ Each department head, with approval of the city manager, shall establish a compliant and accurate system of records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and form a basis for the monthly reports to the city manager.

(Prior Code, § 2-13(c); Code 1994, § 2.06.040; Ord. No. 46, 2012, § 1, 12-18-2012)

Secs. 2-213--2-232. Reserved.

CHAPTER 6. CONTRACTS WITH OTHER GOVERNMENTAL BODIES

Sec. 2-233. Intergovernmental agreements.

The city may enter into contracts with other governmental bodies to furnish governmental services and make charges for such services or enter into cooperative or joint activities with other governmental bodies. Such agreements will be approved as to substance by the city manager or designee, as to legal form by the city attorney or designee, and as to availability of funds by the director of finance or designee, except such agreements will be approved by city council resolution or ordinance:

(1) When the approval of the proposed agreement involves the direct, monetary payment of more than $100,000.00;

(2) In the judgment of the city manager, the proposed agreement entails significant policy considerations; or

(3) The approval by city council is required by state or federal law.

(Ord. No. 27, 2019, exh. § 2.07.040, 7-2-2019)

Secs. 2-234--2-259. Reserved.

CHAPTER 7. ADMINISTRATIVE HEARING OFFICER AND PARKING REFEREE

ARTICLE I. GENERALLY

Sec. 2-260. Administrative hearing officers and parking referees.

(a) The city manager is authorized and empowered to appoint one or more administrative hearing officers to hear certain municipal ordinance violations designated as code infractions and to act as an administrative hearing officer in any other situation as provided for in this Code and as directed by the city manager. The administrative hearing officer shall be an attorney licensed to practice law in the state.

(b) The city manager is authorized and empowered to appoint one or more parking referees to hear certain municipal ordinance violations designated as parking infractions. The parking referee shall be an attorney licensed to practice law in the state.

(c) Administrative support shall be provided to the administrative hearing officer and the parking referee by the appropriate city personnel as determined by the city manager.

(Ord. No. 12, 2019, exh. B, ch. 2.09, 3-19-2019)

Secs. 2-261--2-283. Reserved.

~~CHAPTER 2.12~~ ARTICLE II. DEPARTMENT OF FINANCE

Sec. 2-284. Department of finance established.

~~There is established the department of finance, the head of which is the director of finance and ex officio city Treasurer. The director shall be appointed by the city manager with the advice and consent of the city council and shall act at the direction of the city manager.~~ The department of finance is established by section 5-1 of the Charter and shall operate pursuant to the Charter and this article.

(Prior Code, § 2-15; Code 1994, § 2.12.010; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 2-285. Director of finance; powers and duties.

The director shall be responsible for the programs, functions, activities and facilities assigned to the department by Charter, ordinance or the city manager.

(Prior Code, § 2-16; Code 1994, § 2.12.020; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 2-286. Auditor; appointment.

The city council shall, by formal ballot at the first regular meeting in January of each even year, or as soon thereafter as practicable, appoint an auditor.

(Prior Code, § 2-18(a); Code 1994, § 2.12.030)

Sec. 2-287. Qualifications.

The auditor appointed under this article shall be permitted to practice public accounting under general law and be of known standing to perform an annual audit of municipal government and such other periodic post-audits as the city council may determine. Such auditor may or may not be a resident of the city.

(Prior Code, § 2-18(b); Code 1994, § 2.12.040)

Sec. 2-288. Term.

The auditor appointed under this article shall serve for a term of two years beginning on January 1 and ending on December 31 of the second year.

(Prior Code, § 2-18(c); Code 1994, § 2.12.050)

Sec. 2-289. Removal.

The auditor appointed under this article may be removed by the city council at any time.

(Prior Code, § 2-18(d); Code 1994, § 2.12.060)

Sec. 2-290. Oath required.

The auditor appointed under this article shall take the oath of office required of city officials and shall make oath or affirmation that he has no personal interest, direct or indirect, in the financial affairs of the city or any of its officers or employees.

(Prior Code, § 2-18(e); Code 1994, § 2.12.070)

Sec. 2-291. Semiannual audit and report.

The auditor shall make a condensed, semiannual report to the city council on the financial condition of all funds. Such semiannual audit and report shall be made immediately following June 30.

(Prior Code, § 2-18(f)(1); Code 1994, § 2.12.080)

Sec. 2-292. Annual audit and report.

The auditor shall make a thorough and complete examination and audit of all the financial accounts of all employees, officers, departments, boards and other agencies of the city, as of the close of business December 31 of each year. Such annual audit and report shall be made and submitted to the city council not later than April 1 of the succeeding year and shall include all items as required of the city Charter. Twenty-five copies of the annual audit shall be presented to the city council each year.

(Prior Code, § 2-18(f)(2); Code 1994, § 2.12.090)

Sec. 2-293. Withdrawal of city funds; manner.

All monies shall be withdrawn from all city accounts or funds only by checks or electronic transfer and signed as follows:

(1) For checks, signed by the mayor and director of finance.

(2) For electronic transfers, signed by two city employees of the finance department. All finance department employees authorized to transfer funds electronically shall be designated by employee name in writing by the director of finance on an annual basis and filed with the city clerk.

(Prior Code, § 2-18.1; Code 1994, § 2.12.100; Ord. No. 13, 2011, § 1, 4-19-2011)

Sec. 2-294. Participation in liquid asset trust.

(a) The city approves, adopts and joins as a participant with other local government entities pursuant to

C.R.S. title 24, art. 75, pt. 7, that certain indenture of trust entitled Colorado Local Government Liquid Asset Trust (COLOTRUST) dated as of January 1, 1985, as amended from time to time, the terms of which are incorporated in this section by this reference.

(b) The director of finance shall be empowered to invest the funds of the city treasury, shall act as treasurer as that term is defined in the indenture of trust, as such is designated the city's official representative to COLOTRUST, and is authorized and directed to execute the indenture of trust and such other documents as are required.

(c) The director of finance is authorized to invest, from time to time, the monies in the city's treasury, which are not immediately required to be disbursed, in COLOTRUST by purchasing shares in COLOTRUST from time to time with available funds, and to redeem some or all of those shares from time to time as funds are needed for other purposes.

(d) The secretary of COLOTRUST, or his successor in function, is designated as the official custodian of such funds as are deposited in COLOTRUST by the city during such time or times as funds may be on deposit with COLOTRUST.

(Code 1994, § 2.12.110; Ord. No. 7, 1988, § 1, 1-19-1988; Ord. No. 70, 2002, § 1, 12-17-2002)

Secs. 2-295--2-321. Reserved.

~~CHAPTER 2.14~~ ARTICLE III. DEPARTMENT OF FIRE

Sec. 2-322. Department of fire established.

There is established the department of fire, the director of which shall be the fire chief.

(Prior Code, § 2-57; Code 1994, § 2.14.010)

Sec. 2-323. Duties and functions, generally.

The duties and functions of the ~~director and Department of~~ fire chief shall be as outlined in the Charter, unless supplemented by ordinance or resolution.

(Prior Code, § 2-58; Code 1994, § 2.14.020)

Secs. 2-324--2-349. Reserved.

~~CHAPTER 2.16~~ ARTICLE IV. OFFICE OF THE CITY ATTORNEY

Sec. 2-350. Office of city attorney established.

There is established the office of the city attorney, the director of which is the city attorney.

(Code 1994, § 2.16.010; Ord. No. 63, 1989, § 3(part), 12-5-1989)

Sec. 2-351. Powers and duties.

The city attorney shall be the general legal advisor of the city council and all city officers in all matters pertaining to the city business. He is authorized to make all necessary affidavits, execute all bonds and other instruments in writing necessary to the proper conduct of any suit or proceeding to which the city is a party, and to take and prosecute appeals in all cases in which the interest of the city demands such action. He shall attend such meetings of the city council or its committees as they may direct. He shall be legal advisor to all appointive boards as established by the city Charter or ordinances of the city.

(Code 1994, § 2.16.020; Ord. No. 63, 1989, § 3(part), 12-5-1989; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-352. Assistant city attorneys.

Deputy and assistant city attorneys shall be appointed by the city attorney for indefinite terms. Deputy and assistant city attorneys shall be duly licensed attorneys of the state. Deputy and assistant city attorneys shall work under the city attorney and shall have the same powers and duties as the city attorney.

(Code 1994, § 2.16.030; Ord. No. 63, 1989, § 3(part), 12-5-1989; Ord. No. 34, § 1, 1999)

Secs. 2-353--2-377. Reserved.

~~CHAPTER 2.18~~ ARTICLE V. DEPARTMENT OF HUMAN RESOURCES

Sec. 2-378. Department of human resources established.

There is established the department of human resources, the director of which shall be the city manager or an appointee of the city manager.

(Prior Code, § 2-45; Code 1994, § 2.18.010; Ord. No. 67, 2001, § 4, 8-7-2001; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 2-379. Director of human resources; powers and duties.

The director shall be responsible for the programs, functions, activities and facilities assigned to the department by Charter, ordinance or the city manager.

(Prior Code, § 2-46; Code 1994, § 2.18.020; Ord. No. 67, 2001, § 4, 8-7-2001; Ord. No. 05, 2010, § 1, 3-23-2010)

Secs. 2-380--2-401. Reserved.

~~CHAPTER 2.20~~ ARTICLE VI. DEPARTMENT OF POLICE

Sec. 2-402. Department of police established.

There is established the department of police, the director of which shall be the chief of police.

(Prior Code, § 2-59; Code 1994, § 2.20.010)

Sec. 2-403. Duties and functions generally.

The duties and functions of the ~~director~~ chief of police and department of police shall be as outlined in the Charter, unless supplemented by ordinance or resolution.

(Prior Code, § 2-60; Code 1994, § 2.20.020)

Sec. 2-404. Special officers.

The chief of police is authorized to designate as special police officers those persons appointed by the fire chief to serve as fire arson investigators. Such individuals shall be considered to be peace officers, level III, pursuant to C.R.S. title 16, as amended from time to time, for the enforcement of the fire code and related state statutes. Any individual designated under this section shall meet the requirements set forth by the peace officers standards and training (P.O.S.T.) board.

(Code 1994, § 2.20.030; Ord. No. 42, 1986, § 1, 5-6-1986; Ord. No. 19, 1990, § 1, 4-17-1990; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 2-405. Community service officers.

The chief of police is authorized to designate community service officers. Such individuals shall have the authority to issue summonses and complaints for violations of this Code.

(Code 1994, § 2.20.040; Ord. No. 84, 1992, § 1, 10-6-1992)

Secs. 2-406--2-423. Reserved.

~~CHAPTER 2.24~~ ARTICLE VII. DEPARTMENT OF PUBLIC WORKS

Sec. 2-424. Department of public works established.

There is established the department of public works which shall be headed by a director of public works, who may also be the city engineer.

(Code 1994, § 2.24.010; Ord. No. 71, 1993, § 3(part), 12-7-1993; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 2-425. General responsibilities.

The department of public works shall be responsible for all programs, functions, activities and facilities assigned to the department by Charter, ordinance or the city manager.

(Code 1994, § 2.24.015; Ord. No. 71, 1993, § 3(part), 12-7-1993; Ord. No. 05, 2010, § 1, 3-23-2010)

Secs. 2-426--2-448. Reserved.

~~CHAPTER 2.25~~ ARTICLE VIII. DEPARTMENT OF COMMUNITY DEVELOPMENT

Sec. 2-449. Department of community development established.

There is established a department of community development, the director of which shall be the city manager or an appointee of the city manager.

(Code 1994, § 2.25.010; Ord. No. 63, 1989, § 8(part), 12-5-1989; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 2-450. Duties of director.

The director shall be responsible for the activities of all divisions of the department of community development, including, but not limited to, the planning and zoning functions for the city, and shall perform such other duties as may be required by ordinance or assigned by the city manager.

(Code 1994, § 2.25.020; Ord. No. 63, 1989, § 8(part), 12-5-1989; Ord. No. 05, 2010, § 1, 3-23-2010)

Secs. 2-451--2-468. Reserved.

~~CHAPTER 2.29~~ ARTICLE IX. DEPARTMENT OF CULTURE, PARKS AND RECREATION

Sec. 2-469. Department of culture, parks and recreation established.

There is established a department of culture, parks and recreation, the director of which shall be appointed by the city manager.

(Code 1994, § 2.29.010; Ord. No. 63, 1989, § 7(part), 12-5-1989; Ord. No. 66, 1992, § 1(part), 8-4-1992; Ord. No. 23, 1997, § 1(part), 4-15-1997; Ord. No. 05, 2010, § 1, 3-23-2010; Ord. No. 31, 2012, § 1, 8-7-2012)

Sec. 2-470. Director; duties.

The director shall be responsible for the programs, functions, activities and facilities assigned to the department by Charter, ordinance or the city manager.

(Code 1994, § 2.29.020; Ord. No. 63, 1989, § 7(part), 12-5-1989; Ord. No. 66, 1992, § 1(part), 8-4-1992; Ord. No. 23, 1997, § 1(part), 4-15-1997; Ord. No. 05, 2010, § 1, 3-23-2010; Ord. No. 31, 2012, § 1, 8-7-2012)

Sec. 2-471. Parks and recreation advisory board established; members.

There is created a parks and recreation advisory board which shall consist of nine members appointed by the city council.

(Code 1994, § 2.29.050; Ord. No. 4, 1998, § 1, 2-3-1998; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-472. Functions.

The purpose of the parks and recreation advisory board, acting in an advisory capacity to the city council, is:

(1) To make recommendations/comments regarding culture, parks and recreation department services and operations to the city council.

(2) To make recommendations regarding department of culture, parks and recreation facilities to the city council.

(3) To review the annual budget prepared by staff and make recommendations/comments to the city manager and city council.

(4) To annually review the capital improvements plan, parks and recreation master plan and ten-year plan for the department of culture, parks and recreation and make recommendations/comments to the planning commission, citizen budget advisory committee, city manager and city council.

(5) To consider issues as assigned by the city council.

(6) To recommend to the city council the name of new parks or renaming existing parks under the

jurisdiction of the department of culture, parks and recreation.

(7) Serve as an appeals board for appeals that come to the forestry division.

(Code 1994, § 2.29.060; Ord. No. 4, 1998, § 1, 2-3-1998; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 05, 2010, § 1, 3-23-2010; Ord. No. 31, 2012, § 1, 8-7-2012)

~~Chapter 2.10 division of Cultural Affairs~~

Sec. 2-473. Division of cultural affairs established.

There is established the division of cultural affairs, which shall be assigned to an appropriate department by the city manager.

(Code 1994, § 2.10.010; Ord. No. 76, 1993, § 1(part), 12-21-1993; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 2-474. Functions.

The division of cultural affairs shall provide for the city museums and other cultural activities, and shall perform such other duties as may be required by the Charter, ordinance or the city manager.

(Code 1994, § 2.10.020; Ord. No. 76, 1993, § 1(part), 12-21-1993; Ord. No. 05, 2010, § 1, 3-23-2010)

Secs. 2-475--2-501. Reserved.

CHAPTER 8. URBAN RENEWAL AUTHORITY

Sec. 2-502. Urban renewal authority established; powers, generally.

An urban renewal authority for the city is established, with all the powers as authorized by law.

(Prior Code, § 20A-1; Code 1994, § 2.34.010; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-503. Slum or blighted areas.

The city council finds that one or more slums or blighted areas exist in the city and that the acquisition, clearance, rehabilitation, conservation, development, redevelopment or a combination thereof of such areas is necessary in the interest of the public health, safety, morals or welfare of the residents of the city, and it is in the public interest that the urban renewal authority exercise the powers as provided by law.

(Prior Code, § 20A-2; Code 1994, § 2.34.020)

Secs. 2-504--2-509. Reserved.

CHAPTER ~~13.50~~ 9. METROPOLITAN DISTRICTS

Sec. 2-510. Legislative declaration.

(a) Metropolitan districts (districts) organized under C.R.S. title 32, article 1 (the Special District Act), under appropriate circumstances, provide an economic alternative to the development of municipal infrastructure at the expense and risk of the city. The provisions of this chapter are intended to provide procedures for the processing and review of proposals for formation of new districts and to define the restrictions and limitations which may be imposed by the city as a condition to the approval of such districts consistent with the policy and intent of this chapter.

(b) The adoption of this chapter is necessary, requisite and proper for the government and administration of local and municipal matters pursuant to the city's home rule powers granted by article XX of the Colorado Constitution. The city council specifically finds that the determination of whether to use districts to provide for the development of capital facilities and incurring of debt to finance such facilities is purely a matter of local concern and shall determine the merits of allowing the formation of a district for development of municipal infrastructure to allow a district on a case-by-case basis.

(Code 1994, § 13.50.010; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-511. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the board of directors of a district.

District means a metropolitan district proposed to be established and organized under the Special District Act whose service plan is to be approved by the city under applicable state law, and also means any existing metropolitan district that is located wholly within the corporate limits of the city as of the effective date of the ordinance from which this chapter is derived.

Petitioners means those persons proposing the formation of a district, a service plan for a district or an amendment to an approved service plan of a district.

(Code 1994, § 13.50.020; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-512. Reservation and construction.

The city reserves all the powers and authority granted to municipalities by the Special District Act. The provisions of this chapter shall be construed and applied to supplement the applicable provisions of the Special District Act and, to the extent provided herein, supersede the Special District Act pursuant to the home rule powers granted the city by article XX of the Colorado Constitution.

(Code 1994, § 13.50.030; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-513. District's location.

(a) Districts proposed to be located outside of the mid-range expected service area (MRESA) shall demonstrate compliance with those standards required by section 24-1055 of the Development Code, which allows the city council to grant a waiver from the requirement for development to occur only within the established MRESA.

[GRAPHIC - APPENDIX 18-K MID-RANGE EXPECTED SERVICE AREA BOUNDARY]

(b) Districts proposed to be located within the MRESA may be permitted only for either of the following types of projects:

(1) Substantial redevelopment of a site when it is projected to provide a positive property tax return from the project utilizing the available city infrastructure investment; or

(2) Initial development of a site that demonstrates compliance with the standards required by section 24-1055 of the Development Code.

(Code 1994, § 13.50.040, app. 18-K; Ord. No. 20, 2003, § 1, xx-xx-2003; Ord. No. 19, 2004, § 1, xx-xx-2004; Ord. No. 23, 2006, § 1, xx-xx-2006; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-514. Permitted district improvements.

A district shall only be permitted to construct those capital and infrastructure improvements which are identified within an approved service plan, which may include but are not limited to, required off-site improvements and/or improvements required by section 24-1055 of the Development Code.

(Code 1994, § 13.50.050; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-515. District minimum size.

A district shall consist of an area of at least one square mile in area size with all property included in the district contiguous, except streets, ditches and other similar easements or features. A district may be less than one square mile if it can be demonstrated that the development substantially accomplishes the land use mix and connectivity with adjacent parcels required by section 24-1055 of the Development Code.

(Code 1994, § 13.50.060; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-516. Use of eminent domain by a district.

Eminent domain may be utilized by a district only on a case-by-case basis and only after review and approval by the city council. The city council may approve the use of eminent domain within a metropolitan district if the proposed use of eminent domain is necessary for the development of the district and there is an identified public benefit obtained by the use of eminent domain.

(Code 1994, § 13.50.070; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-517. District's application for grants.

A district may be permitted to apply for grant funds for which the city is also eligible only after review and approval by the city council of the application for said grant proposal by the district.

(Code 1994, § 13.50.080; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-518. Disclosure.

As part of any sale of real property located within a metropolitan district, there shall be a written disclosure statement which accompanies the sales transaction that identifies and describes the increased property tax burden of the property due to its location in the metropolitan district. The document shall be executed as part of the title work associated with the sale of the property, shall be signed by the seller and purchaser of the property and shall be recorded promptly with the county clerk and recorder by the district.

(Code 1994, § 13.50.090; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-519. Referral notice to other affected special districts.

As part of the city review and approval of all proposed districts, a written notice from the city shall be forwarded to each existing special district located within the proposed district's boundary at least 30 calendar days prior to the public hearing. The purpose of the notice is to afford the special districts the opportunity to provide comment about the proposed district and any adverse impacts, including the district's proposed financing and mill levy, which the existing special district anticipates may arise from the district due to its anticipated development and its proposed location.

(Code 1994, § 13.50.100; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-520. District review timeframe.

Creation of new districts shall be considered as part of the annual city council review of the mid-range expected service area (MRESA) boundary. An exception to this timeframe may be granted by the city council for a district, in the city's sole discretion, when the proposed district meets the waiver criteria found in section 24-1055.

(Code 1994, § 13.50.110; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-521. District fees and costs.

(a) The application and processing fee for the city to review the creation of a district and service plan shall be set periodically by the city manager at a rate to recover administrative review expenses as well as reasonable direct costs incurred by the city related to such district and plan review, including, but not limited to, costs of the city's bond counsel.

(b) All owners of real property within any district shall be required to pay any and all applicable city fees, costs and expenses, including, but not limited to, building and development fees that apply to all properties citywide.

(Code 1994, § 13.50.120; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-522. Required annual report.

Not later than September 1 of each calendar year, each district shall file an annual report (the annual report) with the city clerk, the requirements of which may be waived in whole or in part by the city council, if such reporting requirements place an undue hardship on such district. The annual report shall reflect activity and financial events of the district through the preceding December 31 (the report year). The annual report shall include the following:

(1) A narrative summary of the progress of the district in implementing its service plan for the report year;

(2) Except when exemption from audit has been granted for the report year under the Local Government Audit Law, the audited financial statements of the district for the report year, including a statement of financial condition (i.e., balance sheet) as of December 31 of the report year, and the statement of operations (i.e., revenues and expenditures) for the report year or a copy of the audit exemption application;

(3) Unless disclosed within a separate schedule attached to the financial statements, a summary of the capital expenditures incurred by the district in development of public improvements in the report year, as well as any public improvements proposed to be undertaken in the five years following the report year;

(4) Unless disclosed within a separate schedule attached to the financial statements, a summary of the financial obligations of the district at the end of the report year, including the amount of outstanding debt, the amount and terms of any new debt issued in the report year, the amount of payment or retirement of existing debt of the district in the report year, the total assessed valuation of all taxable properties within the district as of January 1 of the report year and the current mill levy of the district pledged to debt retirement in the report year;

(5) A summary of residential and commercial development in the district for the report year;

(6) A summary of all fees, charges and assessments imposed by the district as of January 1 of the report year;

(7) Certification by the board of directors that no action, event or condition enumerated in section 2-530 has occurred in the report year; and

(8) The name, business address and telephone number of each member of the board of directors and its chief administrative officer and general counsel, together with the date, place and time of the regular meetings of the board of directors.

(Code 1994, § 13.50.130; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-523. Review of annual report.

Annually, the city council, at a regular public meeting, may review the annual reports received from each district. In the event the annual report is not timely received by the city clerk, notice of such default shall be given by certified mail by the city clerk to the board of directors of such district at its last-known address. The failure of the district to file the annual report within 45 calendar days of the mailing of such default notice by the city clerk shall empower the city council to impose the sanctions authorized in section 2-537. The remedies provided for noncompliance with the filing of the annual report shall be supplementary to any remedy authorized by the Special District Act.

(Code 1994, § 13.50.140; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-524. Presubmittal meeting.

Petitioners shall initiate a service plan proposal by scheduling a meeting with designated city staff representatives to discuss the procedures and requirements for a service plan. The city representative shall explain the administrative process and provide information to assist petitioners in the orderly processing of the proposed service plan.

(Code 1994, § 13.50.150; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-525. Filing of proposed service plan.

(a) Petitioners shall file a proposed service plan and 15 additional copies with the city clerk. The proposed service plan shall substantially comply with the format of any model service plan which is maintained on file with the city clerk.

(b) A copy of the proposed petition to be filed with the district court must be included with the proposed service plan filed with the city.

(Code 1994, § 13.50.160; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-526. Service plan contents.

The proposed service plan shall include the following:

(1) The information required under C.R.S. § 32-1-202(2), and section 24-1055 of the Development Code.

(2) A map of the proposed district boundaries with a legal description or lot and block description.

(3) An itemization of any costs which petitioners expect to be assumed by the city for the construction and maintenance of public improvements and the timing of said public expenditure.

(4) Proof of ownership for all properties within the district.

(5) A copy of any and all proposed, contractual and/or operations documents which would affect or be executed by the proposed district, including the form of any intergovernmental agreement between the district and the city.

(6) A capital plan including the following:

a. A description of the type of capital facilities to be developed by the district;

b. An estimate of the cost of the proposed facilities; and

c. A pro forma capital expenditure plan correlating expenditures with development of district infrastructure.

(7) A financial plan including the following:

a. The total amount of debt issuance planned for the five-year period commencing with the formation of the district;

b. All proposed sources of revenue and projected district expenses, as well as the assumptions upon which they are based, for at least a ten-year period from the date of the district formation;

c. The dollar amount of any anticipated financing, including capitalized interest, costs of issuance, estimated maximum rates and discounts and any expenses related to the organization and initial operation of the district;

d. A detailed repayment plan covering the life of any financing, including the frequency and amounts expected to be collected from all sources;

e. The amount of any reserve fund and the expected level of annual debt service coverage which will be maintained for any financing;

f. The total authorized debt for the district;

g. The provisions regarding credit enhancement, if any, for the proposed financing, including, but not limited to, letters of credit and insurance; and

h. A list and written explanation of potential risks of the financing.

(8) Such other information contained in the model service plan or as may reasonably be deemed necessary or appropriate by the city, including, but not limited to, potential impacts to other existing developments within the city.

(Code 1994, § 13.50.170; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-527. Administrative review.

Once a review of the service plan by the city has been completed, a comprehensive analysis shall be made in written report form to the city council. The report shall evaluate the service plan and incorporate comments of the city staff as well as any consultants. The report shall set forth the recommendations made in accordance with the review criteria contained in section 2-526.

(Code 1994, § 13.50.180; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-528. Public hearing and criteria applied to a service plan.

Upon completion of the administrative report, a public hearing shall be scheduled for consideration at a regular

city council meeting. Public notice shall be accomplished in accordance with the requirements of C.R.S. § 32-1-204.

(1) Any testimony or evidence which, in the discretion of the city council, is relevant to the organization of the district shall be considered.

(2) The city council shall apply the following criteria to consideration of the proposed service plan:

a. Whether there is a sufficient existing and projected need for organized service in the area to be serviced by the proposed district;

b. Whether the existing service in the area to be served by the proposed district is inadequate for present and projected needs;

c. Whether the proposed district is capable of providing economical and sufficient service to the area within its proposed boundaries;

d. Whether the area to be included in the proposed district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;

e. Whether adequate service is not, or will not be, available to the area through the city or other existing quasi-municipal corporations, including existing districts, within a reasonable time and on a comparable basis;

f. Whether the facility and service standards of the proposed district are compatible with the facility and service standards of the city;

g. Whether the proposal is in substantial compliance with the city's comprehensive plan;

h. Whether the proposal is in substantial compliance with the county, regional or state long-range water quality management plans and wastewater plans for the area;

i. Whether the creation of the district will be in the best interests of the area proposed to be served;

j. Whether the creation of the district will be in the best interests of the residents or future residents of the area proposed to be served;

k. Whether the proposed service plan is in substantial compliance with this chapter; and

l. Whether the creation of the district will foster urban development that is remote from, or incapable of being integrated with, existing urban areas, or place a burden on the city or adjacent jurisdictions to provide urban services to residents of the proposed district.

(Code 1994, § 13.50.190; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-529. Findings and written determination regarding district service plan.

If, after consideration of the applicant's submitted materials, staff reports and public testimony at the public hearing, the service plan is approved, a resolution of approval of the service plan, either as approved or as approved with conditions, shall be adopted by the city council. The resolution of approval of the service plan shall include findings that conclusively establish that the service plan is in substantial compliance with this chapter and, in particular, the criteria found in section 2-526 and subsection 2-528(2). In all cases, the city council shall make findings for its determination of approval, approval with conditions or denial based on the criteria stated in subsection 2-528(2).

(Code 1994, § 13.50.200; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-530. Material modification.

In addition to any material modifications made to any approved service plan, the occurrence of any of the following actions, events or conditions, subsequent to the date of approval of the service plan or most recent amendment thereto, shall constitute material modifications requiring a service plan amendment:

(1) Default in the payment of principal or interest of any district bonds, notes, certificates, debentures, contracts or other evidences of indebtedness or borrowing issued or incurred by the district which:

a. Persists for a period of 120 calendar days or more;

b. The defaulted payment exceeds the lesser of $50,000.00 or ten percent of the outstanding principal balance of the indebtedness; or

c. The creditors have not agreed in writing with the district to forbear from pursuit of legal remedies.

(2) The failure of the district to develop, cause to be developed or consent to the development by others of any capital facility proposed in its service plan when necessary to service approved development within the district.

(3) Failure of the district to realize at least 75 percent of the development revenues (including developer contributions, loans or advances, fees, exactions and charges imposed by the district on residential and commercial development, excluding taxes) projected in the financial portion of the service plan during the three-year period ending with the report year, provided that the disparity between projected and realized revenue exceeds $50,000.00.

(4) The development of any capital facility in excess of $100,000.00 in cost, which is not either identified in the service plan or authorized by the city in the course of a separate development approval, excluding bona fide cost projection miscalculations; and state or federally mandated improvements, particularly water, storm drainage and/or sanitation facilities.

(5) The occurrence of any event or condition which is defined under the service plan or intergovernmental agreement as necessitating a service plan amendment.

(6) The material default by the district under any intergovernmental agreement with the city.

(7) Any of the events or conditions enumerated in C.R.S.§ 32-1-207(2).

(Code 1994, § 13.50.210; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-531. Appeal hearing of material modification determination.

Should the district dispute that one or more of the occurrences enumerated in section 2-530 is a material modification, the district may, within 60 calendar days of notice by the city, and after consultation with city staff, request in writing a hearing before the city council. After hearing and receipt of any relevant information presented by the district and the recommendation of city staff, the city council shall make a finding as to whether such occurrence constitutes a material modification. In the event it is found that a material modification has taken place, the district shall submit its request for an amendment in accordance with this chapter, unless waived by the city council. Upon a finding that no material modification has taken place, the district shall be relieved from obtaining an amendment. The city council may, however, require a later amendment if the change or deviation, on a cumulative basis, subsequently becomes a material modification. In making its determination, the city council shall consider, among other relevant information, whether the modification will have a probable adverse financial impact on the city.

(Code 1994, § 13.50.220; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-532. Service plan amendment.

(a) Except as otherwise provided in the approved service plan and except when the city council has determined that no material modification has occurred pursuant to section 2-531, within 90 calendar days of the occurrence of an action, event or condition enumerated in section 2-530, the board of directors shall forward an appropriate petition to the city council for approval requesting a service plan amendment. The petition for amendment shall include:

(1) Any information or documentation required under the applicable provisions of the Special District Act;

(2) Any material changes since the service plan was last reviewed and approved by the city council to any of the information, assumptions or projections furnished in conjunction with the petition for approval of organization of a district or contained in the service plan;

(3) A detailed explanation of the activity, events or conditions which resulted in the material modification, including what action was taken or alternatives considered, if any, by the district to avoid the action,

event or condition;

(4) The impact of the material modification on the district's ability to develop the capital facilities and infrastructure necessary to meet its capital development plan;

(5) The effect of the material modification on the district's ability to retire, as scheduled, its outstanding financial obligations and its ability to issue and market additional indebtedness, if any;

(6) A current financial plan for the district reflecting development absorption rates anticipated within the district's service area, projected annual revenues and expenditures based upon such projected absorption rates, debt issuance and amortization schedules and a projection of anticipated capital outlays;

(7) The financial impact of the modification on existing residents of the district;

(8) An updated five-year capital improvements plan; and

(9) What alternatives or options are available to the district if the requested amendment is not approved.

(b) All of the required information shall be supported by appropriate technical analysis, reports and supporting documents of qualified professionals and consultants. The amendment shall be processed and reviewed in the same manner as prescribed by this chapter for an initial service plan, except that the submittal requirements of this section shall be substituted for those of section 2-525, and the application fee shall be set by the city manager. This section shall not impair the right of the city to bring an action in the district court to pursue appropriate remedies, including, but not limited to, enjoining the activities of the district pursuant to C.R.S. § 32-1-207(3)(b).

(c) After the effective date of the ordinance from which this chapter is derived, all service plan amendments shall comply with this chapter.

(Code 1994, § 13.50.230; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-533. Exemption from compliance with this chapter.

If any district has not undertaken development of capital facilities or issued any indebtedness within one year after approval of the district by the city, it may apply to the city council within 30 calendar days of expiration of the one-year period for a one-time exemption from compliance with this chapter for a period of time not to exceed two years beginning from the end of the initial one-year performance period. The city council may grant, at its sole discretion, an exemption if the board of directors submits a resolution to the city council stating that, upon issuance of the exemption, the district's authorization under the service plan and the intergovernmental agreement with the city to undertake development of capital facilities or issue any indebtedness is temporarily suspended. Upon issuance of the exemption, the district shall be excluded from compliance with this chapter, except that the district annually, not later than September 1, shall submit financial statements from the previous year and the budget for the current year.

(Code 1994, § 13.50.240; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-534. Review of financing.

A district shall not issue any indebtedness that is not consistent with the service plan previously approved by the city, without first submitting the proposed financing to the city for review and comment. The city shall have 60 calendar days to review the proposed financing. The submission shall include the dollar amount of the issue, the estimated interest rate and other financing costs, the type of revenues pledged to repayment, including amount of the mill levy pledged, and a description of the credit enhancements, together with any preliminary official statement or other prospectus for the debt issue. The submission shall be accompanied by a certification of the board of directors that the proposed issuance or refinance of indebtedness is authorized by and in compliance with the service plan for the district.

(Code 1994, § 13.50.250; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-535. Land use.

Approval of a service plan does not guarantee the petitioner and/or the district any other land use approvals by the city required for the development of property within the district.

(Code 1994, § 13.50.260; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-536. Capital facilities.

Districts are prohibited from developing or constructing any capital facility unless such facility is authorized under the service plan and intergovernmental agreement and any applicable city ordinances.

(Code 1994, § 13.50.270; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-537. Enforcement.

Should any district fail to comply with any applicable provision of this chapter, the city council may impose one or more of the following sanctions, as it deems appropriate:

(1) Exercise any applicable remedy under the Special District Act.

(2) Withhold the issuance of any permit, authorization, acceptance or other administrative approval necessary for the district's development of public facilities or construction.

(3) Exercise any legal remedy under the terms of any intergovernmental agreement under which the district is in default.

(4) Exercise any other legal remedies, including, but not limited to, seeking injunctive relief against the district, to ensure compliance with the provisions of this chapter.

All remedies of the city are cumulative in nature.

(Code 1994, § 13.50.280; Ord. No. 13, 2007, § 1, 4-3-2007)

Sec. 2-538. Application to pending service plans and amendments.

This chapter shall govern the processing, review and consideration of service plans for new districts or those existing districts required to submit service plans or service plan amendments which have not received approval by the city council prior to the effective date of the ordinance from which this chapter is derived.

(Code 1994, § 13.50.290; Ord. No. 13, 2007, § 1, 4-3-2007)

~~**Sec. 13.50.300. Severability.**~~

~~The sections, subsections, sentences, clauses and phrases of this chapter are severable, and if any phrase, clause, sentence, subsection or section of this chapter is declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, subsections and sections of this chapter.~~

~~(Code 1994, § 13.50.300; Ord. No. 13, 2007, § 1, 4-3-2007)~~

Secs. 2-539--2-549. Reserved.

CHAPTER 10. BOARDS AND COMMISSIONS

ARTICLE I. GENERALLY

Sec. 2-550. Boards, definition.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board, as hereinafter used in this chapter, may also mean commission, committee or authority.

(Code 1994, § 2.30.005; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-551. Appointment and removal of board members.

(a) The city council shall appoint and remove board members in accordance with the provisions of the city Charter. Members shall continue to serve until their successors have been appointed, and a vacancy shall be filled for the unexpired term of a member whose position becomes vacant.

(b) The city council shall periodically review each board, excepting those specifically created by the city Charter. After review, the city council shall, by majority vote, either authorize continuance of the board or allow the board to lapse. Review of boards shall be conducted every three years from the date of their creation. The boards

created prior to November 6, 2001, shall be reviewed in accordance with the following initial three-year schedule:

Board/Commission	*Year of creation*	*Initial review year*
Human Relations Commission	1973	2002
Museum Board	1958	2002
Parks and Recreation Advisory Board	1974	2002
Air Quality and Natural Resources	1994	2003
Building Inspection Advisory and Appeals Board	1986	2003
Electrical Board of Appeals	1987	2003
Greeley Art Commission	1993	2003
Greeley Housing Authority*	1973	2003
Mechanical and Plumbing Advisory and Appeals Board	1986	2003
Rental Housing Advisory Board	1998	2003
Union Colony Civic Center Advisory Board	1990	2003
Citizen Budget Advisory Board	1998	2004
Citizen Transportation Advisory Board	1998	2004
Downtown Development Authority*	1998	2004
Golf Course Advisory Board	1997	2004
Historic Preservation Commission	1995	2004
Jesus Rodarte Cultural Center Advisory Board	1997	2004
Stormwater Advisory Board	1995	2004
Youth Commission	1989	2004

*Pursuant to state law, city council has authority to approve continuance/sunset of these groups and acknowledges that legal and financial considerations would be included in a review to determine continuance or a sunset.

(Prior Code, § 2-10.1(a); Code 1994, § 2.30.010; Ord. No. 59, 2002, § 1, 10-15-2002; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-552. Administrative support, minutes.

Administrative support shall be provided to boards by the appropriate city department as determined by the city manager. The department director or director's designee shall act as secretary to the board and shall keep a complete record of its minutes and activities. The official copy of the minutes shall be forwarded to the city clerk's office to be retained in accordance with the city's adopted records retention schedule.

(Code 1994, § 2.30.015; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 46, 2012, § 1, 12-18-2012)

Sec. 2-553. Powers and duties.

(a) Annually each board shall select from its membership appointed by the city council, a chair and vice chair, and establish its own rules of procedure not in conflict with the city Charter or laws and ordinances of the city.

(b) Each board may establish subcommittees or invite any number of nonvoting, ex officio members to participate in meetings or assist in carrying out its responsibilities.

(c) Proceedings shall be conducted in accordance with Robert's Rules of Order.

(d) With openness and accessibility being addressed in state law as well as council's goals, each board shall

notify the public of meetings to be held by posting meeting notices at both entrances to city hall. Additionally, records of board meetings and actions shall be open and accessible to the public pursuant to the Colorado Open Records Act.

(Prior Code, § 2-10.1(b); Code 1994, § 2.30.020; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-554. Meetings, quorum, voting.

Each board shall meet regularly or in special meetings as needed. A majority of members shall constitute a quorum for the transaction of business and the exercise of jurisdictional powers granted by the Charter or Code. Unless otherwise required, all decisions of a board shall be by majority vote of the members present. Each member shall have one vote. Ex officio and staff members may participate but not vote.

(Code 1994, § 2.30.030; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-555. Compensation and expenses.

All members of boards shall serve without compensation except for such amounts determined appropriate by the city council to offset expenses incurred in the performance of their duties.

(Code 1994, § 2.30.035; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-556. Time of appointments.

All appointments to city boards existing on June 1, 1992, are extended or decreased, whichever is less, by an amount not to exceed five months, to meet the following schedule:

Board/Commission	*Expiration of Term Month Ending*
Air Quality and Natural Resources	February
Golf Course Advisory Board	February
Island Grove Advisory Board	February
Parks and Recreation Advisory Board	February
Stormwater Board	February
Museum Board	March
Union Colony Civic Center Advisory Board	March
Jesus Rodarte Cultural Center Board	April
Human Relations Commission	May
Youth Commission	May
Downtown Development Authority	June
Rental Housing Board	June
Water and Sewer Board	June
Civil Service Commission	July
Building Inspection Advisory and Appeals	August
Planning Commission	August
Housing Authority	September
Mercado Advisory Board	September
Art Commission	October
Historic Preservation Committee	October
Building Authority	October

Transportation	November
Urban Renewal Authority	November
Airport Authority	December
Citizen Budget Advisory Committee	December
Economic Development Action Partnership	December

(Code 1994, § 2.30.040; Ord. No. 32, 1992, § 1, 5-19-1992; Ord. No. 66, 1993, § 1, 11-2-1993; Ord. No. 77 § 2, 1998; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-557. Terms.

(a) Unless otherwise provided by Charter or Code, board members shall be appointed for a term of three years with terms staggered to provide for a new appointment or reappointment every year. For initial appointments, terms shall be assigned so as to minimize the number of members with one-year terms.

(b) Members of the downtown development authority shall be appointed to a term of five years.

(Code 1994, § 2.30.050; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 24, 2012, § 1, 7-3-2012; Ord. No. 10, 2013, § 1, 4-16-2013)

Sec. 2-558. Number of members and ward representation.

In order to reach and maintain a balance of representation from each of the city's four wards, board membership, unless otherwise provided by Charter or Code, shall total five or nine members, with a preference that one member, or two members for nine-member boards, reside in and represent each of the four wards.

(Code 1994, § 2.30.060; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 54, 2003, § 1, 8-5-2003; Ord. No. 13, 2006, § 1, 4-18-2006)

Secs. 2-559--2-569. Reserved.

~~CHAPTER 2.31~~ ARTICLE II. YOUTH COMMISSION

Sec. 2-570. Greeley youth commission established; members.

There is hereby created a commission on youth, an advisory board to the city council, which shall consist of up to 16 members. Eleven voting members shall be between the ages of 11 and 18 years, and consideration may be given to equal representation from schools located within the city. Three members shall be ex officio members over the age of 18 and appointed by the youth members of the commission. This appointment procedure shall supersede any other Code provisions that conflict in the appointment of youth commission members, including section 2-558.

(Code 1994, § 2.31.010; Res. No. 16, 1989, 6-6-1989; Res. No. 35, 1990, 6-26-1990; Res. No. 45, 1995, 6-6-1995; Ord. No. 6, 2003, § 1, 1-21-2003; Ord. No. 33, 2004, § 1, 7-6-2004; Ord. No. 13, 2006, § 1, 4-18-2006)

Sec. 2-571. Terms.

The terms of members of the youth commission shall be two years.

(Code 1994, § 2.31.020; Ord. No. 6, 2003, § 1, 1-21-2003)

Sec. 2-572. Purpose and functions.

(a) The purpose of the youth commission is to encourage greater involvement of area youth in community issues.

(b) The functions of the commission shall include, but not be limited to:

(1) Advising the city council on matters affecting youth and making specific recommendations for youth programs and activities;

(2) Enhancing the range and quality of recreational, employment, civic and social opportunities for youth in the community;

(3) Serving as a forum for the expression of ideas, needs, concerns and goals relating to community issues, particularly as they affect youth; and

(4) Enlisting community-wide participation in assuming responsibility for resolving youth concerns in a coordinated manner.

(Code 1994, § 2.31.030; Ord. No. 6, 2003, § 1, 1-21-2003)

Secs. 2-573--2-592. Reserved.

~~CHAPTER 2.32~~ ARTICLE III. HUMAN RELATIONS COMMISSION

Sec. 2-593. Human relations commission established; members.

There is created a commission on human relations, which shall consist of 11 members, eight of whom shall be appointed by the city council. One member shall be the official representative of the University of Northern Colorado, one member shall be the official representative of Aims Community College, and one member shall be the official representative of School District Six to be appointed by the president of the respective institutions.

(Prior Code, § 13B-2(part); Code 1994, § 2.32.010; Ord. No. 36, 1986, § 1, 4-1-1986; Ord. No. 28, 1993, § 1, 6-15-1993; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-594. Functions.

The functions of the human relations commission are to foster mutual respect and understanding and to create an atmosphere conducive to the promotion of amicable relations among all members of the city community, to serve as a vehicle through which the citizens can convey their suggestions on the policies of local government with respect to social problems, to be sensitive to the social needs of the citizens, and to advise and assist the city government in relating human relations and social service programs to the needs of the people. Specifically, the human relations commission shall, with the assistance and coordination of the head of the division of human relations:

(1) Study, prepare and recommend to the city council a plan of long-range and short-range priorities in the area of human relations;

(2) Assist the city council in developing and properly evaluating the city's long-range and short-range goals and priorities in light of their impact on human relations;

(3) Review the activities of the city administration and its departments for the purpose of analyzing such activities in light of their impact on human relations, and create programs within the administration which will promote better human relations;

(4) Upon request of the city council, city manager or head of the division of human relations, or upon the initiative of the human relations commission, advise the city council or city manager on the social and human relations impact of proposals to be acted upon by the city council, or upon areas to which council consideration should be directed;

(5) Develop and conduct educational programs and activities that, in the judgment of the human relations commission, will increase goodwill among citizens of the city, eliminate discrimination and open new opportunities for all citizens in all phases of community life;

(6) Undertake those tasks and matters as may be assigned to the human relations commission from time to time by the city council; and

(7) Provide conciliation or arbitration services to parties involved in disputes over civil rights, if the parties request such conciliation or arbitration services and if the dispute is likely to lead to public disorder if not resolved.

(Prior Code, § 13B-3; Code 1994, § 2.32.030)

Sec. 2-595. Powers.

The head of the division of human relations and the human relations commission shall have the powers set forth in this section, and no others. The following statement of powers shall not be construed to enlarge or expand the functions set forth in section 2-594 and the powers shall be exercised only as necessary to carry out those

functions. The powers shall be to:

(1) *Public hearings and inquiries*. Conduct public hearings and inquire into incidents of division and conflict in the community, and attempt to correct the same by recommending to appropriate agencies, either public or private, the carrying out of such actions as are necessary or helpful in eliminating such division and conflict;

(2) *Administrative and legislative recommendations*. Study, analyze and recommend to the city council proposals for administrative or legislative action which may be necessary to alleviate human relations problems;

(3) *Human relations impact study*. Consider, investigate, study and make recommendations with respect to any contemplated or proposed action by any federal, state or municipal government, or any instrumentality, agency or department thereof, which action may have or has an effect on human relations within the community;

(4) *Publication of reports*. Issue to the city manager and to the city council reports of investigations and research, and publish such reports when authorized by the head of the division of human relations;

(5) *Educational campaigns*. Enlist the cooperation of various groups in the community, including business, labor and community organizations, schools, colleges and universities, fraternal and benevolent associations, for the purpose of participating in educational campaigns, demonstrating the need to eliminate group prejudice, intolerance, disorder and discrimination and to further encourage and assist such groups to take such affirmative action as is necessary to eradicate the vestiges of prior prejudice, intolerance, disorder and discrimination;

(6) *Governmental cooperation*. Within the provisions of this chapter, cooperate with federal, state, county and municipal agencies and departments in eliminating prejudice, intolerance, disorder and discrimination wherever they exist within the community, and encourage the participation of such agencies and departments in such affirmative actions as in the human relations commission's judgment are necessary to eradicate vestiges of prior prejudice, intolerance, disorder and discrimination;

(7) *Organization promotion*. Promote the establishment of local community organizations, when deemed desirable, consisting of representatives of different groups within the community, for the purpose of improving human relations and recognizing human rights among all groups and persons within the community;

(8) *Conciliation and arbitration*. Act as conciliator or arbitrator in situations and incidents involving division and conflict in the community upon the request of the parties or when called upon by the city council or city manager;

(9) *Hearings and counsel*. Hold hearings and take such evidence as may voluntarily be tendered relating to any matter under investigation by or of concern to the human relations commission, and call upon the city attorney to provide counsel for any such hearing;

(10) *Municipal entity cooperation*. Cooperate with other boards, commissions and authorities of the city in matters concerning and affecting human relations;

(11) *Information requests*. Request and receive, subject to reasonable restrictions by the city manager, information in the possession of any city department or agency;

(12) *Advisory recommendations*. Make advisory recommendations, quarterly or upon request, to the city council on programs, practices and priorities in human relations, and report on human relations activity and concerns in a candid statement to the city council, reporting the real situation in any area of social problems as the human relations commission sees it; and

(13) *Investigation requests to city*. Request that the city manager or the head of the division of human relations investigate any set of facts or circumstances which gives the human relations commission reasonable cause to believe that a social or human relations problem exists.

(Prior Code, § 13B-4(part); Code 1994, § 2.32.040)

Sec. 2-596. Authority to exercise.

The head of the division of human relations may exercise the powers set forth in subsections (1) and (8) of section 2-595 independently of the human relations commission and may exercise the other powers in conjunction with the human relations commission. The human relations commission may exercise the powers specified in section 2-595 independently of the head of the division of human relations, except for the powers set forth in subsections (1), (8) and (9) of section 2-595 which it may exercise only in conjunction with the head of such division.

(Prior Code, § 13B-4(part); Code 1994, § 2.32.050)

Secs. 2-597--2-625. Reserved.

~~CHAPTER 2.33~~ ARTICLE IV. ART COMMISSION

Sec. 2-626. Greeley Art Commission; establishment.

There is created a Greeley Art Commission, the purpose of which is to manage acquisitions, including, but not limited to, the review and recommendation to council of artwork which is proposed for donation to the city for public display.

(Code 1994, § 2.33.010; Ord. No. 50, 1993, § 1(part), 9-21-1993; Ord. No. 56, 1994, § 1, 12-20-1994; Ord. No. 21, 1997, § 1(part), 4-15-1997; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-627. Members; terms; replacement and removal.

The city art commission shall be comprised of 12 members; nine members appointed by council. One designated member each from the city's parks and recreation advisory board, planning commission, water and sewer board and six community members, which shall include one artist, one art educator, and one architect or designer.

(Code 1994, § 2.33.020; Ord. No. 50, 1993, § 1(part), 9-21-1993; Ord. No. 21, 1997, § 1(part), 4-15-1997; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-628. Powers and authority.

The city art commission shall establish rules of procedure and operating standards to define "work of art," artwork selection criteria, site selection criteria and any dollar amount or in-kind assistance to be required as a condition of acceptance to provide for installation and maintenance of any work of art. Reports from the commission, as well as recommendations, shall be made directly to the city council. city staff supporting the parks and recreation advisory board, the planning commission and the union colony civic center advisory board shall provide support to the city art commission in the execution of its duties.

(Code 1994, § 2.33.030; Ord. No. 50, 1993, § 1(part), 9-21-1993; Ord. No. 21, 1997, § 1(part), 4-15-1997; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-629. Art in public places program; purpose.

The purpose of this section is to provide a means to fund the acquisition of works of art by the city which shall become the city's permanent collection, to provide a means to select works of art for the collection, to provide for the display of the collection and to provide for the maintenance and repair of the works of art in the collection.

(Code 1994, § 2.33.040; Ord. No. 42, 1998, § 1, 8-4-1998; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-630. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Art in public places means any visual work of art displayed for two weeks or more in an open city-owned area, on the exterior of any city-owned facility, inside any city-owned facility in areas designed as public areas or on non-city property if the work of art is installed or financed, either wholly or in part, with city funds or grants procured by the city.

Commission means the Greeley Art Commission as created by section 2-626.

Construction cost means actual cost of any construction project with an estimated construction cost of $50,000.00 or more, excluding engineering and administrative costs, costs of fees and permits and indirect costs, such as interest during construction, advertising and legal fees.

Construction project means the construction, rehabilitation, renovation, remodeling, equipping or improvement of any public building, street, park, utility line or other public improvement by or for the city, including all associated landscaping, parking and the like, but excluding any improvements made by any special improvement district and any other improvements exempted by the city council.

Reserve account shall mean the Art in Public Places Reserve Account established by this article.

Work of art, includes, but is not limited to, a sculpture, monument, mural, fresco, relief, painting, fountain, banner, mosaic, ceramic, weaving, carving and stained glass. The term "work of art" would not include paving or signs.

(Code 1994, § 2.33.041; Ord. No. 42, 1998, § 1, 8-4-1998; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-631. Funds for works of art.

All requests submitted to the city council for appropriations for construction projects estimated to cost over $250,000.00 and not more than $50,000,000.00 shall include an amount equal to one percent of the estimated cost of such project for works of art. When the city council approves the appropriations for any such project, one percent of the appropriated amount shall be deposited into the appropriate reserve account. If any construction project is partially funded from any source which precludes a work of art as an object of expenditure of such funds, the one percent shall be funded from project funding sources that are not so restricted. Money collected in the Art in Public Places Reserve Account shall be expended by the city for projects as prescribed by the Art in Public Places Guidelines.

(Code 1994, § 2.33.042; Ord. No. 42, 1998, § 1, 8-4-1998; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-632. Project design.

In all construction projects costing between $50,000.00 and $250,000.00, one percent of the project cost will be utilized in conjunction with a city-selected artist who will participate in the design of the project for the purpose of incorporating works of art into all aspects of the project, both functional and aesthetic, to the fullest extent possible within the project budget. The cost of the artist's services shall be paid from the reserve account associated with the project budget. If not practical to incorporate artwork into the designated project, said funds can be moved to another like project with the recommendation of the commission and approval by the city council.

(Code 1994, § 2.33.043; Ord. No. 42, 1998, § 1, 8-4-1998; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-633. Incorporating art in purchases.

The city shall endeavor to include artistic and aesthetic values in all construction projects, including those costing less than $50,000.00, and in all purchases of personal property that may be located or used in places open to the public.

(Code 1994, § 2.33.044; Ord. No. 42, 1998, § 1, 8-4-1998; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-634. Accounts established.

(a) There is hereby established a reserve account with the General Fund to be known as the Art in Public Places Reserve Account. Said reserve account shall be credited with such funds as determined by the city council and with all funds received by the city for visual art in public places, whether contributed, earned, secured through grants or otherwise obtained. Monies credited to such account shall be expended only for acquisition, lease, installation, maintenance and repair of works of art and expenses of administration of this chapter.

(b) There is hereby established a separate reserve account within the Water and Sewer Fund to be known as the Art in Public Places Reserve Account for such fund. Said reserve account shall be credited with such funds as the city council may determine and with all funds from section 2-631 that are paid by the utility for which said fund was established. Monies credited to such reserve account shall be expended only for the acquisition or lease of works of art that provide a betterment to such utility or that are otherwise determined by the city council to be for a specific utility purpose that is beneficial to the rate payers of such utility, and for the maintenance, repair or display

of such works of art. Any limitations in other provisions of this Code on the purposes for which monies in the Water and Sewer Fund used shall not prohibit the use of monies in the Art in Public Places Reserve Account for such fund from being expended for the acquisition or lease of works of art or for the maintenance, repair or display of works of art.

(c) There is hereby established a separate reserve account within the stormwater management program Fund to be known as the Art in Public Places Reserve Account for such Fund. Said reserve account shall be credited with such funds as the city council may determine and with all funds from section 2-631 that are paid by the utility for which said fund was established. Monies credited to such reserve account shall be expended only for the acquisition or lease of works of art that provide a betterment to such utility or that are otherwise determined by the city council to be for a specific utility purpose that is beneficial to the rate payers of such utility and for the maintenance, repair or display of such works of art. Any limitations in other provisions of this Code on the purposes for which monies in the stormwater management program Fund may be used shall not prohibit the use of monies in the Art in Public Places Reserve Account from being expended for the acquisition or lease of works of art or for the maintenance, repair or display of works of art.

(Code 1994, § 2.33.045; Ord. No. 42, 1998, § 1, 8-4-1998; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 19, 2013, § 1, 7-16-2013)

Sec. 2-635. Administration.

In accordance with section 2-628, the commission shall administer the provisions of this chapter relating to the acquisition of works of art and their display. The commission shall submit to the city council, not later than March 1 of each year, an annual report for the prior year.

(Code 1994, § 2.33.046; Ord. No. 42, 1998, § 1, 8-4-1998; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-636. Display of art in public places.

(a) Works of art selected and implemented pursuant to the provisions of this chapter may be placed in, on or about any public place or, by agreement with the owner thereof, any private property with substantial public exposure in and around the city. Works of art owned by the city may also be loaned for exhibition elsewhere, upon such terms and conditions as deemed necessary by the commission and approved by council. city officials responsible for the design and construction of public improvements in the city shall make appropriate space available for the placement of works of art, in consultation with the commission. The commission shall advise the department responsible for the particular public improvement of the commission's decision regarding the design, execution and placement of works of art in connection with such project. For any proposed work of art requiring an extraordinary operation or maintenance expense, the commission shall obtain prior written approval of the department head responsible for such operation or maintenance before approving the same.

(b) All works of art shall receive the prior review and approval of the commission consistent with section 2-628. None shall be removed, altered or changed without the prior review and approval of the commission.

(c) No work of art financed or installed either wholly or in part with city funds or with grants procured by the city shall be installed on privately-owned property without a written agreement between the commission, acting on behalf of the city, and the owner specifying the proprietary interests in the work of art and specifying other provisions deemed necessary or desirable by the city attorney. In addition, such written agreements shall specify that the private property owner shall ensure:

(1) That the installation of the work of art will be done in a manner which will protect the work of art and the public;

(2) That the work of art will be maintained in good condition; and

(3) That insurance and indemnification will be provided as is appropriate.

(d) Installation, maintenance, alteration, refinishing and moving of works of art shall be done in consultation with the artist whenever feasible.

(e) The director of the division of cultural affairs shall maintain a detailed record of all art in public places, including site drawings, photographs, designs, names of artists and names of architects whenever feasible. In conjunction with the commission, the director shall provide recognition to the artists of the art in public places

program. The director shall also place on file in the office of the city clerk the Public Art Collection Policy Guidelines.

(Code 1994, § 2.33.047; Ord. No. 42, 1998, § 1, 8-4-1998; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 2-637. Ownership.

All works of art acquired pursuant to this chapter shall be acquired in the name of, and title shall be held by, the city.

(Code 1994, § 2.33.048; Ord. No. 42, 1998, § 1, 8-4-1998; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-638. Exemptions.

The following are exempt from the provisions of this chapter:

(1) All works of art in the collections of, on display at or under the auspices of the city museums; and

(2) All works of art on display in private city offices or other areas of city-owned facilities which are not generally frequented by the public.

(Code 1994, § 2.33.049; Ord. No. 42, 1998, § 1, 8-4-1998; Ord. No. 70, 2002, § 1, 12-17-2002)

Secs. 2-639--2-664. Reserved.

~~CHAPTER 2.35~~ ARTICLE IV. MUSEUM BOARD

Sec. 2-665. Museum board established; members.

There is hereby created a museum board, an advisory board to the city council, which shall consist of nine members.

(Code 1994, § 2.35.010; Charter § 16-5; Res. No. 65, 1993, 12-7-1993; Res. No. 18, 1994, 4-5-1994; Ord. No. 6, 2003, § 1, 1-21-2003)

Sec. 2-666. Purpose and functions.

(a) The purpose of the museum board is to provide a leadership role in the development of facilities and implementation of programs that preserve and interpret the history of human occupation and contemporary characteristics of the state high plains region, especially Greeley and Weld County.

(b) The functions of the board shall include, but not be limited to:

(1) Establishing policies to accession, deaccession and for the use of museum collection; and

(2) Recommending to the city council the passing of ordinances, long range plans or other action, including the acceptance of real property, designed to achieve the purpose of the city museums.

(Code 1994, § 2.35.020; Ord. No. 6, 2003, § 1, 1-21-2003)

Secs. 2-667--2-690. Reserved.

~~CHAPTER 2.36~~ ARTICLE V. WELD COUNTY MUNICIPAL AIRPORT AUTHORITY

Sec. 2-691. Airport authority established.

There is created, pursuant to the provisions of the Public Airport Authority Law, C.R.S. section 41-3-101, et seq., an airport authority.

(Prior Code, § 6-31; Code 1994, § 2.36.010; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-692. Name of authority.

The airport authority hereby created shall be known as the Greeley-Weld County Airport Authority.

(Prior Code, § 6-32; Code 1994, § 2.36.020; Ord. No. 24, 1983, § 2, 4-19-1983)

Sec. 2-693. Status, power and authority, generally.

The Greeley-Weld County Airport Authority shall be a body corporate and politic constituting a political subdivision of the state and shall have all power and authority granted to it under the Colorado Public Airport Authority Act.

(Prior Code, § 6-33; Code 1994, § 2.36.030; Ord. No. 24, 1983, § 4, 4-19-1983)

Sec. 2-694. Contributions of city and county.

The city and the county have contributed assets to the authority, as set forth in Exhibit A of the ordinance from which this section is derived, which is incorporated herein by reference as if set forth fully herein. The city has contributed 74 percent of the real property assets and the county 26 percent. The city has contributed 47 percent of the other assets and the county 53 percent.

(Prior Code, § 6-34(part); Code 1994, § 2.36.040)

Sec. 2-695. Contributions; distribution.

After the formation of the Greeley-Weld County Airport Authority, a list of contributions shall be maintained showing what real property assets and other assets have been contributed by the city and the county. Upon dissolution, these assets shall be distributed to the city and the county in proportion to their contributions. Property acquired by the use of federal funds shall be returned to the United States Government if so required, and if such is not required, it shall be divided 50 percent to the city and 50 percent to the county.

(Prior Code, § 6-34(part); Code 1994, § 2.36.050)

Sec. 2-696. Procedure for distributing assets.

Upon dissolution of the Greeley-Weld County Airport Authority, by agreement of the county and city or for any other reason, its liabilities and obligations to creditors shall be paid and the assets shown on Exhibit A of the ordinance from which this section is derived or the proceeds of their sale shall then be distributed to the city and county in proportion to their capital contributions.

(Prior Code, § 6-34(part); Code 1994, § 2.36.060)

Sec. 2-697. Dissolution or termination; arbitration.

If a dissolution or termination of the Greeley-Weld County Airport Authority shall occur and the city and the county are in dispute as to any matter, the settlement of any such dispute will be arbitrated in accordance with the then prevailing rules of the American Arbitration Association.

(Prior Code, § 6-34(part); Code 1994, § 2.36.070)

Sec. 2-698. Contribution of capital investment funds by county.

After formation of the Greeley-Weld County Airport Authority, it is the intent of the county to contribute funds or money to the airport pursuant to the airport master plan for capital investment, but not to contribute toward the normal operations and maintenance of airport facilities.

(Prior Code, § 6-35; Code 1994, § 2.36.080; Ord. No. 24, 1983, § 5, 4-19-1983)

Sec. 2-699. Board of commissioners; powers; composition; vacancies.

All powers, privileges and duties vested in or imposed upon said Airport Authority, pursuant to the provisions of the Colorado Public Airport Authority Act, shall be exercised and performed by and through a board of commissioners (airport commissioners) representing the city and the county.

(1) Three airport commissioners shall be appointed by the city, two to be city councilmembers, and three airport commissioners shall be appointed by the county, two to be county commissioners. The seventh airport commissioner shall be appointed jointly by the city and the county, the initial appointment to be made by a method agreeable to both the city and the county. After the initial appointment, when a vacancy occurs in this position, the airport board of commissioners, no later than one month after notice of the vacancy, shall recommend a candidate for the vacancy to the city council and the board of county commissioners. The city council and the board of county commissioners must act upon the

recommendation within one month of receipt and shall appoint the recommended candidate except for good cause. Should the city council or the board of county commissioners reject the candidate recommended, the airport board of commissioners shall recommend another candidate within one month.

(2) Vacancies in the other six commissioner positions shall be filled in the same manner as the original appointments and by the same governmental entity (city or county) which made the original appointment.

(3) The term of each city councilmember and each county commissioner shall be four years, or until such time as he is no longer a member of the city council or board of county commissioners, whichever is sooner, except that the initial terms of one of the city councilmembers and one of the county commissioners shall be two years. The airport commissioners who are not city councilmembers or county commissioners shall each be appointed for four-year terms except that for those terms beginning January 1, 1999, the term shall be as follows: the city appointee shall be one year, the county appointee shall be two years and the joint appointee shall be four years. A quorum of the board shall consist of four airport commissioners present.

(Prior Code, § 6-36; Code 1994, § 2.36.090; Ord. No. 2, 1993, § 1, 2-2-1993; Ord. No. 77, 1998, § 1, 12-1-1998; Ord. No. 70, 2002, § 1, 12-17-2002)

Secs. 2-700--2-726. Reserved.

~~CHAPTER 2.37~~ ARTICLE VI. UNION COLONY CIVIC CENTER ADVISORY BOARD

Sec. 2-727. Union Colony Civic Center advisory board established; members.

There is hereby created a Union Colony Civic Center advisory board, an advisory board to the city council, which shall consist on nine members.

(Code 1994, § 2.37.010; Res. No. 8, 1990, 3-20-1990; Ord. No. 6, 2003, § 1, 1-21-2003)

Sec. 2-728. Purpose and functions.

(a) The purpose of the Union Colony Civic Center advisory board is to provide direct citizen involvement in assisting, supporting and advising the city with programming, events and policies for the Union Colony Civic Center.

(b) The functions of the board shall include, but not be limited to:

(1) Reviewing existing policies and rate structure and making recommendations for changes;

(2) Holding public meetings with users when appropriate;

(3) Marketing the civic center to increase usage and find new users and uses;

(4) Assisting staff with development of the performing arts program;

(5) Reviewing gallery policies and artist proposals, evaluating artwork given to the city and determining a calendar for the next year; and

(6) Evaluating the need for volunteers, and supporting volunteer recruitment, training and recognition.

(Code 1994, § 2.37.020; Ord. No. 6, 2003, § 1, 1-21-2003)

Secs. 2-729--2-754. Reserved.

~~Chapter 2.38 Forensic Services~~

~~**2.38.010. Agreement with weld county authorized.**~~

~~Pursuant to section 3-7 of the Greeley Charter, the mayor and appropriate city officials are authorized to enter into an a certain agreement with Weld County to provide forensic services. The agreement shall establishes the Weld County Forensic Services to be administered by the Greeley police department and the Weld County Sheriff's Office. The agreement is attached to the ordinance codified at this section and incorporated into this chapter by reference.~~

~~(Code 1994, § 2.38.010; Ord. 32, 1978 §1)~~

~~CHAPTER 2.39~~ ARTICLE VII. CITIZEN BUDGET ADVISORY COMMITTEE

Sec. 2-755. Citizen budget advisory committee established; members.

There is hereby created a citizen budget advisory committee, an advisory board to the city council, which shall consist of nine members.

(Code 1994, § 2.39.010; Res. No. 4, 1994, 2-15-1994; Ord. No. 56, 1993, 9, 10-5-1993; Ord. No. 6, 2003, § 1, 1-21-2003; Ord. No. 06, 2011, § 1, 2-1-2011)

Sec. 2-756. Purpose and functions.

(a) The purpose of the citizen budget advisory committee is to provide citizen involvement in the budget process.

(b) The functions of the committee shall include, but not be limited to:

(1) Becoming familiar with city operations and commenting on revenue requirements, expenditures, staffing levels, alternative service delivery and how well the budget meets the needs of the community;

(2) Giving special review attention to specific areas, as directed by city council or by consensus of the committee; and

(3) Commenting, through an annual report, on the city budget to the city council.

(Code 1994, § 2.39.020; Ord. No. 6, 2003, § 1, 1-21-2003; Ord. No. 06, 2011, § 1, 2-1-2011)

Secs. 2-757--2-780. Reserved.

~~CHAPTER 2.43~~ ARTICLE VIII. CITIZEN TRANSPORTATION ADVISORY BOARD

Sec. 2-781. Citizen transportation advisory board established; members.

There is hereby created a citizen transportation advisory board, an advisory board to the city council, which shall consist of seven members, six appointed by city council and one from the City of Evans appointed by the Evans city council.

(Code 1994, § 2.43.010; Res. No. 30, 1990, 6-5-1990; Res. No. 43, 1991, 10-1-1991; Res. No. 77, 1994, 10-18-1994; Res. No. 3, 1998, 2-3-1998; Ord. No. 6, 2003, § 1, 1-21-2003; Ord. No. 54, 2003, § 1, 8-5-2003; Ord. No. 13, 2006, § 1, 4-18-2006; Ord. No. 31, 2013, § 1, 10-15-2013)

Sec. 2-782. Purpose.

The purpose of the citizen transportation advisory board is to provide direct citizen involvement in all matters affecting the city's transportation services, traffic and transportation-related activities such as the transit system, inter-city transit, transportation demand activities and traffic safety, planning and improvements.

(Code 1994, § 2.42.020; Ord. No. 6, 2003, § 1, 1-21-2003)

Secs. 2-783--2-802. Reserved.

~~CHAPTER 2.44~~ ARTICLE IX. ISLAND GROVE PARK ADVISORY BOARD

Sec. 2-803. Established; purpose.

The Island Grove Park Advisory Board is established to:

(1) Provide for and encourage the development, maintenance and operation of park, recreation and service facilities for the benefit of all the citizens of the city and the county, both rural and urban, with said facilities to be located at the Island Grove Park, as the same exists and as it may be expanded from time to time;

(2) Study and determine from time to time what should be included within said park, recreational and service facilities, which, at this time, shall include, but not to the exclusion of such other determinations as may be hereafter made, the development of parks, open spaces, nature areas, outdoor recreational facilities, recreational and service facilities of all types for use by all citizens of the city and the county in the nature of buildings, arenas and other recreational service facilities, but not by way of exclusion of other facilities

of the same general character;

(3) Provide recommendations for the development of Island Grove Park to the city and the county regarding expansion of the current Island Grove Park by means of acquisition of lands and interest therein, whether by purchase, gift, condemnation or otherwise, so as to acquire sufficient land to adequately provide for the park, recreational and service facility needs of all of the citizens of the city and the county, it being determined at this time that such expansion is in the public interest; and

(4) Facilitate the promotion, management, maintenance and operation of the city and the county's facilities located at the Island Grove site and to obtain maximum beneficial use of all city- and county-owned facilities at the Island Grove Park.

(Code 1994, § 2.44.010; Ord. No. 83, 1984, § 1, 11-6-1984; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-804. Jurisdiction.

The area governed by this article shall be the area known as the Island Grove Park and adjacent facilities as more fully set forth in Exhibit A, on file in the office of the city clerk and incorporated in this section by reference.

(Code 1994, § 2.44.020; Ord. No. 83, 1984, § 2, 11-6-1984; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 2-805. Membership; powers; duties.

The Island Grove Park Advisory Board (hereinafter referred to as the board) is created to advise the city and the county on Island Grove Park, and it is determined that the board shall consist of seven individuals, three to be appointed by the city council, including one city councilmember, and an additional three to be appointed by the board of county commissioners, including one commissioner, with one additional member to be appointed by majority vote of the six city and county members. The board shall have certain responsibilities as follows:

(1) The board shall annually submit a proposed budget to the city and the county for the maintenance, operation, development and promotion of the Island Grove Park and adjacent area as specified in section 2-804 for the city's and the county's consideration and approval.

(2) The board shall recommend a schedule of use and rental fees for the park and its facilities to the city manager for his approval.

(3) The board shall consider and make recommendations upon any requests for waiver of fees for use of park facilities. Any recommendations to grant a request for waiver of fees shall be given to the city manager or his designee who shall have final authority to grant any such waiver.

(4) The board shall make recommendations to the city and the county for policies for the use of the park and for recommendations of long-range plans for the use and further development of the park, recreation and service facilities. Based upon such long-range plans, the board shall make recommendations to the city and the county regarding long-range funding for the development of the park and its recreational and service facilities.

(5) The board shall have the authority to seek gifts, bequests, government funds or grants or other available monies for the purposes set forth in this section.

(6) The board shall enact its own bylaws for procedures to be followed in the conduct of its business providing, at a minimum:

a. That meetings be held at least monthly, if there is business to be conducted;

b. That the chairpersonship be rotated annually between the board of county commissioners and the city councilmembers;

c. That a quorum of four be required for the conduct of business; and

d. That an affirmative vote of the majority of the members present and voting be required for any action of the board except for enactment and amendment of the bylaws, which shall require a majority of the members of the entire board.

(Code 1994, § 2.44.030; Ord. No. 83, 1984, § 3, 11-6-1984; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 2-806. Staff.

Staff support for the conduct of business of the board shall be supplied by the city.

(Code 1994, § 2.44.040; Ord. No. 83, 1984, § 4, 11-6-1984; Ord. No. 70, 2002, § 1, 12-17-2002)

Secs. 2-807--2-835. Reserved.

~~CHAPTER 2.48~~ ARTICLE X. GOLF COURSES

Sec. 2-836. Golf course operation.

The golf courses shall be operated as an enterprise fund in conformance with the standards established by the ~~GFOA~~ government finance officers' association but not considered a qualified "enterprise" per article X, section 20 of the state constitution.

(Code 1994, § 2.48.010; Ord. No. 3, 1997, § 1(part), 1-7-1997; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 2-837. Division established.

The golf courses shall, in accordance with the authority granted by section 3-10 of the city Charter, be established as a division of a department of the city as assigned by the city manager.

(Code 1994, § 2.48.020; Ord. No. 3, 1997, § 1(part), 1-7-1997; Ord. No. 60, 2006, § 1, 12-5-2006; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 2-838. Golf board; duties.

The golf courses shall be managed with the assistance of a golf board of seven persons appointed by the city council with the following duties and obligations:

(1) To make recommendations related to golf course operations, including concession operations, to the city council when action is necessary by the council;

(2) To review the annual budget;

(3) To review the capital improvement plan;

(4) To review and recommend user fees to the city manager for his approval with the intent to produce sufficient revenue needed to cover the costs of operations and maintenance of the courses, debt repayment expenses, reserves adequate to cover the cost of replacement of facilities and equipment and reserves to cover shortfalls in revenue, less any subsidy to the golf course operation authorized by the city council on an annual basis;

(5) To review the annual report on golf course operations; and

(6) Make such other reports to the city council as deemed necessary by the board.

(Code 1994, § 2.48.040; Ord. No. 3, 1997, § 1(part), 1-7-1997; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 60, 2006, § 3, 12-5-2006; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 2-839. Members appointed.

All current members of the golf board are hereby appointed to the new board established by this article.

(Code 1994, § 2.48.050; Ord. No. 3, 1997, § 1(part), 1-7-1997)

Secs. 2-840--2-856. Reserved.

~~CHAPTER 2.49~~ ARTICLE XI. JESUS RODARTE CULTURAL CENTER ADVISORY BOARD

Sec. 2-857. Jesus Rodarte Cultural Center Advisory Board created; members; terms.

A Jesus Rodarte Cultural Center Advisory Board is hereby created and shall consist of seven persons appointed by council.

(Code 1994, § 2.49.005; Ord. No. 25, 1997, § 1(part), 4-15-1997; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 31, 2013, § 1, 10-15-2013)

Sec. 2-858. Responsibilities.

The Jesus Rodarte Cultural Center Advisory Board shall have the following responsibilities:

(1) To make recommendations/comments regarding Jesus Rodarte Cultural Center operation to the city council;

(2) To review the annual budget prepared by staff and make recommendations/comments to the city manager and city council;

(3) To review the capital improvement plan for the Jesus Rodarte Cultural Center and make recommendations/comments to the planning commission, city manager and city council;

(4) To review the annual Jesus Rodarte Cultural Center's operation report and make recommendations/comments to the city manager and city council; and

(5) To make recommendations/comments regarding the job descriptions for the Jesus Rodarte Cultural Center staff.

(Code 1994, § 2.49.040; Ord. No. 25, 1997, § 1(part), 4-15-1997; Ord. No. 70, 2002, § 1, 12-17-2002)

Secs. 2-859--2-879. Reserved.

~~CHAPTER 2.50~~ ARTICLE XII. DISABILITIES COMMISSION

Sec. 2-880. Purpose.

The purpose of the disabilities commission shall be to promote the full inclusion and integration of people with disabilities into all parts of society.

(Code 1994, § 2.50.010; Ord. No. 21, 2004, § 1, 5-4-2004; Ord. No. 3, 2016 § 1, 1-19-2016)

Sec. 2-881. Functions.

The disabilities commission shall have the following functions:

(1) To serve as an advisor to the city on the issues relating to citizens with disabilities;

(2) To develop educational programs to acquaint citizens with issues affecting individuals with disabilities;

(3) To advise the city on the accessibility and usability of city facilities, programs and services for citizens with disabilities;

(4) To form special committees as necessary to review and address specific issues in which the city is directly involved or has a direct interest that affect the wellbeing of individuals with disabilities;

(5) To speak on behalf of citizens with disabilities and, as requested by the city, to work as a conduit between city departments and the private and business sectors on issues relating to citizens with disabilities;

(6) To promote efforts to eradicate discrimination against individuals with disabilities;

(7) To cooperate with citizens, community, business, professional, educational, and civic organizations in efforts to further the interests of individuals with disabilities.

(Code 1994, § 2.50.020; Ord. No. 21, 2004, § 2, 5-4-2004; Ord. No. 3, 2016 §2, 1-19-2016)

Sec. 2-882. Establishment and membership.

A commission on disabilities is hereby created, which shall consist of seven members, all of whom shall be appointed by the city council. Four of the members shall be individuals with a disability and/or the parent/guardian of a minor or adult child with a disability and shall include representatives with a variety of disabilities; and three members shall be representatives of a local employer or community members at-large. Disability commission members may be appointed by council without regard as to within which ward they reside. This section shall expressly override any conflicts with regards to appointment procedures that may exist in section 2-558.

(Code 1994, § 2.50.030; Ord. No. 21, 2004, § 3, 5-4-2004; Ord. No. 58, 2007, § 1, 9-18-2007; Ord. 3, 2016 § 3, 1-19-2016)

Secs. 2-883--2-912. Reserved.

CHAPTER 11. MUNICIPAL COURT

ARTICLE I. GENERALLY

Sec. 2-913. Applicability of provisions.

This article shall apply to and govern the operation of the municipal court of the city.

(Prior Code, § 2-21(a); Code 1994, § 2.08.010)

Sec. 2-914. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Municipal court, as used in this article, means a qualified municipal court of record, as defined in C.R.S. section 13-10-102, as created under article VII of the city Charter.

Municipal judge, as used in this article, means and includes the presiding municipal judge and all assistant municipal judges, unless the context requires otherwise.

(Prior Code, § 2-21(b); Code 1994, § 2.08.020)

Sec. 2-915. Court established; jurisdiction.

There is established a municipal court, which shall have jurisdiction to hear and try ~~all~~ any alleged criminal, non-administrative violation ~~violations of the Charter and~~ designated by this Code as misdemeanor offense, traffic offense, misdemeanor infraction, traffic infraction, or parking infraction.

(Prior Code, § 2-22; Code 1994, § 2.08.030)

Sec. 2-916. Juvenile jurisdiction.

The municipal court shall have the authority to try juvenile defendants under the age of 18 for traffic violations under title 16, curfew violations under chapter 7 of title 14 of this Code, noise violations under section 12-239, and violations of section 14-294 related to littering.

(Code 1994, § 2.08.035; Ord. No. 23, 2008, § 1, 7-1-2008; Ord. No. 09, 2011, § 1, 2-15-2011; Ord. No. 50, 2011, § 1, 12-20-2011)

Sec. 2-917. Formation of judicial review board.

(a) *Board established.* There is hereby established a judicial review board, the purpose of which is to investigate, evaluate and make recommendations to the city council on the retention of the municipal court judge. The board shall be comprised of five members. The board membership shall include at least one licensed attorney, one person with a criminal justice background, one representative from the business community and two representatives from the general public.

(b) *Powers and duties.* The board shall have the powers and duties to:

(1) Develop and recommend an evaluation system for the municipal court judge, which shall be transmitted to the city council for approval, modification or rejection;

(2) Develop and recommend a survey of judicial performance to be disseminated to the public; and

(3) Perform other such duties as may be prescribed by the city council or as defined further in board rules of procedure.

(Code 1994, § 2.08.600; Ord. No. 33, 2002, § 1, 5-7-2002; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 2, 2012, § 1, 1-31-2012)

Secs. 2-918--2-937. Reserved.

ARTICLE II. MUNICIPAL JUDGE AND STAFF

Sec. 2-938. Municipal judge; appointment, term.

The municipal court shall be presided over by the presiding municipal judge, who shall be appointed by city council for a term of four years and may be reappointed for subsequent terms of four years.

(Prior Code, § 2-24(a)(1); Code 1994, § 2.08.040; Ord. No. 33, 1992, § 2, 5-19-1992; Ord. No. 19, 2002, § 1, 4-2-2002)

Sec. 2-939. Assistants; appointment, term.

The city council may appoint one or more assistant municipal judges as may be necessary to handle the case load of the municipal court.

(Prior Code, § 2-24(a)(2); Code 1994, § 2.08.050; Ord. No. 19, 2002, § 1, 4-2-2002; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-940. Presiding judge designated.

In the event that more than one municipal judge is appointed, the city council shall designate a presiding municipal judge, who shall serve in that capacity during the term for which he was appointed.

(Prior Code, § 2-24(a)(3); Code 1994, § 2.08.060)

Sec. 2-941. Compensation.

The municipal judges shall be paid compensation in an amount set by the city council.

(Prior Code, § 2-26(a); Code 1994, § 2.08.080; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-942. Compensation by caseload prohibited.

Payment of any fees or other compensation based directly on the number of individual cases handled or heard by a municipal judge is prohibited.

(Prior Code, § 2-26(b); Code 1994, § 2.08.090; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-943. Removal.

A municipal judge may be removed during his term of office only for cause. A municipal judge may be removed for cause if:

(1) He is found guilty of a felony or any other crime involving moral turpitude;

(2) He has a disability which interferes with the performance of his duties and which is, or is likely to become, of a permanent character;

(3) He has willfully or persistently failed to competently perform his duties;

(4) He is habitually intemperate; or

(5) He has a sustained violation of any Colorado Rules of Judicial Conduct or Colorado Rules of Professional Conduct, as provided by the State of Colorado Court Rules.

(Prior Code, § 2-24(b); Code 1994, § 2.08.100; Ord. No. 38, 2002, § 1, 5-21-2002; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-944. Powers.

(a) The presiding municipal judge or designee shall have all judicial powers relating to the operation of the municipal court, subject to any rules of procedure governing the operation and conduct of municipal courts promulgated by the state supreme court. The presiding municipal judge shall have the authority to issue local rules of procedure consistent with any rules of procedure adopted by the state supreme court.

(b) The judicial powers of any municipal judge shall include the power to enforce subpoenas issued by any board, commission, hearing officer or other body or officer of the city authorized by law or ordinance to issue subpoenas.

(c) A municipal judge may issue search warrants upon probable cause for the investigation and enforcement

of this Code and other codes adopted by the city by ordinance.

(Prior Code, § 2-23(a); Code 1994, § 2.08.110; Ord. No. 46, 1985, § 1, 5-7-1985; Ord. No. 33, 1992, § 3, 5-19-1992; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-945. Recording of proceedings.

A municipal judge shall require that all proceedings and evidence presented within the municipal court be recorded verbatim, by either electronic or stenographic means.

(Prior Code, § 2-23(b); Code 1994, § 2.08.120; Ord. No. 26, 2010, § 1, 7-20-2010; Ord. No. 46, 2012, § 1, 12-18-2012)

Sec. 2-946. Clerk of the municipal court established.

There is established the position of clerk of the municipal court. The clerk of the municipal court may also be known as the court administrator.

(Prior Code, § 2-27(a); Code 1994, § 2.08.130; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-947. Appointment and supervision.

The clerk of the municipal court shall be appointed by the city manager. The duties of the clerk of the municipal court shall be prescribed by the city manager. The city manager shall consider any advice the presiding municipal judge has regarding the duties of the clerk of the municipal court but shall not be bound to accept such advice.

(Prior Code, § 2-27(b); Code 1994, § 2.08.140)

Sec. 2-948. Compensation by caseload prohibited.

Payment of any fees or other compensation based directly on the number of individual cases handled by the clerk of the municipal court is prohibited.

(Prior Code, § 2-27(d); Code 1994, § 2.08.160)

Sec. 2-949. Violations bureau.

The municipal court may establish a violations bureau to assist the court with the clerical work of cases.

(Prior Code, § 2-29(a); Code 1994, § 2.08.180)

Secs. 2-950--2-971. Reserved.

ARTICLE III. PROCEDURES

Sec. 2-972. Procedure of the court.

All proceedings of the municipal court shall be governed by the Colorado Municipal Court Rules of Procedure as issued by the state supreme court and any local rules of procedure issued by the municipal judge. Traffic infractions as established in section 1-229 shall also be governed by the state rules for traffic infractions, as issued by the state supreme court, and any local rules of procedure issued by the municipal judge. Copies of any local rules of procedure shall be available for inspection at the office of the court clerk.

(Code 1994, § 2.08.195; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-973. Appeals; right designated.

Appeals may be taken by any defendant from any judgment of the municipal court in accordance with the state laws.

(Prior Code, § 2-30; Code 1994, § 2.08.200)

Sec. 2-974. Bond required to stay judgment.

When an appellant desires to stay the judgment of the municipal court, he shall execute a bond to the city in such penal sum, in such form and with sureties qualified as may be designated by the municipal court. In the discretion of the court, no surety need be required.

(Prior Code, § 2-31; Code 1994, § 2.08.210)

Sec. 2-975. Filing of actions or summonses.

Any action or summons brought in the municipal court to recover any fine or enforce any penalty or forfeiture under any ordinance shall be filed in the name of the city, by and on behalf of the people of the state.

(Prior Code, § 2-32(a); Code 1994, § 2.08.220)

Sec. 2-976. Execution of process within city.

Any process issued from or out of the municipal court shall run in the name of the city, by and on behalf of the people of the state. Processes from the municipal court shall be executed within the city by any police officer of the city, without fee.

(Prior Code, § 2-32(b); Code 1994, § 2.08.230)

Sec. 2-977. Execution of papers outside city.

Any authorized law enforcement officer in the state may execute within his jurisdiction any summons, process, writ or warrant issued by the municipal court. The city shall be liable for and pay all costs, including costs of service or incarceration, incurred in connection with such service or execution.

(Prior Code, § 2-32(c); Code 1994, § 2.08.240; Ord. No. 48, 1980, § 2, 6-17-1980; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-978. Issuance of subpoena.

The clerk of the municipal court shall issue a subpoena for the appearance of any witness in municipal court upon the request of either the prosecuting attorney or the defendant. The subpoena may be served upon any person within the jurisdiction of the court in the manner prescribed by the rules of procedure applicable to municipal courts.

(Prior Code, § 2-33(d); Code 1994, § 2.08.250)

Sec. 2-979. Docket fees designated.

At the municipal judge's discretion, a docket fee may be assessed against any defendant who pleads guilty or nolo contendere, who enters into a plea agreement, or who, after trial, is found guilty of an ordinance violation. Docket fees shall be in addition to any other court costs, surcharges or other fees designated by the court, ordinance or other applicable law.

(Prior Code, § 2-34; Code 1994, § 2.08.290; Ord. No. 15, 1983, § 4, 3-1-1983; Ord. No. 33, 1992, § 5, 5-19-1992; Ord. No. 9, 2005, § 1, xx-xx-2005; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-980. Court fees designated.

(a) Fees in an amount to be set in accordance with section 1-38, shall be levied against any person who pleads guilty or nolo contendere, who enters into a plea agreement, who, after trial, is found guilty of an ordinance violation or who pays a penalty assessment.

(b) Where any person is convicted of an offense, the court shall give judgment in favor of the city and against the offender for the amount of costs and any fine imposed.

(c) The costs assessed pursuant to subsection (b) of this section may include:

(1) Any docket fee required by section 2-979 or any other fee required by ordinance to be paid to the clerk of the court;

(2) The jury fee required by section 2-996;

(3) Any fees of the court reporter for all or any part of a transcript necessarily obtained for use in the case;

(4) The witness fees and mileage paid pursuant to this chapter;

(5) Any fees for exemplification and copies of papers necessarily obtained for use in the case;

(6) Any costs of taking depositions for the perpetuation of testimony, including reporters' fees, witness fees, expert witness fees, mileage for witnesses and sheriff fees for the service of subpoenas;

(7) Any statutory fees for service of process or statutory fees for any required publications;

(8) Any surcharge imposed by subsection (a) of this section;

(9) Any cost of incarceration, including booking, fingerprinting, photographing and other expenses;

(10) Any other reasonable cost incurred by the city;

(11) Any item specifically authorized by ordinance to be included as part of the costs;

(12) On proper motion of the prosecuting attorney and at the discretion of the court, any other reasonable and necessary costs incurred by the prosecuting attorney which are directly the result of the prosecution of the defendant;

(13) If the defendant does not pay the amount assessed immediately after sentencing, the defendant shall pay to the clerk of the court additional time payment fee as established by the municipal court. In addition, there may be assessed against a defendant a late payment fee each time a payment is not received on or before the due date and/or each time a defendant fails to comply with the due date for useful public service and/or the due date for any ordered classes or conditions of a sentence, deferred sentence or deferred prosecution. If the court determines that the defendant does not have the financial resources to pay a time payment fee or a late penalty fee, the court may waive or suspend a time payment fee or late payment fee.

(d) Costs imposed pursuant to this section are in addition to any other fees imposed by the court.

(Code 1994, § 2.08.291; Ord. No. 42, 1990, § 2, 8-21-1990; Ord. No. 33, 1992, § 6, 5-19-1992; Ord. No. 58, 2002, § 1, 10-15-2002; Ord. No. 10, 2005, § 1, 2-1-2005; Ord. No. 45, 2007, § 1, 8-21-2007; Ord. No. 26, 2010, § 1, 7-20-2010; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 2-981. Surcharge on drug and alcohol offenses.

A municipal judge shall assess a municipal court surcharge of $50.00 for anyone pleading guilty to, including a nolo or Alford plea, or being convicted of, a drug or alcohol offense pursuant to sections 14-244 through 14-249 and sections 14-179 through 14-184 or any offense in which there is an underlying factual basis involving the abuse of drugs or alcohol, which surcharge shall be dedicated by the finance department and exclusively spent for detoxification services by the city. This surcharge shall be in addition to any other fees, court costs and surcharges imposed by the court.

(Code 1994, § 2.08.292; Ord. No. 34, 2003, § 1, 4-15-2003; Ord. No. 57, 2009, § 1, 11-3-2009; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-982. Collection of court costs, fines, fees and surcharges.

The municipal court shall adopt procedures for the collection of court costs, fines, fees and surcharges which may include the engaging of collection services. The defendant shall additionally pay any associated collection costs, fees and/or commissions for these collection services.

(Code 1994, § 2.08.295; Ord. No. 17, 2008, § 1, 4-15-2008; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-983. Penalties; designated.

Any person convicted of violating a municipal ordinance may be punished as provided in chapter 9 of title 1 of this Code and other relevant Code provisions.

(Prior Code, § 2-35(a); Code 1994, § 2.08.300; Ord. No. 22, 1982, § 9(part), 5-4-1982; Ord. No. 48, 1985, § 1, 5-7-1985; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-984. Parental responsibility; affirmative defenses.

(a) Whenever a minor under the age of 18 years residing or living with his parents or guardians is convicted of a violation of a municipal ordinance for which the court imposes a fine, court fees or costs, the parents or guardians of the minor shall be jointly responsible for payment of such fine, restitution or court costs or fees.

(b) It shall be an affirmative defense to the obligation created by this section if the parent or guardian demonstrates to the court that, at the time of the offense:

(1) The parent or guardian did not have lawful custody of the minor;

(2) The minor was not residing with the parent or guardian; or

(3) The minor is emancipated. For the purposes of this section only, the term "emancipated minor" means a minor over 15 years and under 18 years of age who has, with real or apparent assent of his parents or guardians, demonstrated his independence from his parents or guardians in matters of care, custody and earnings. The term "emancipated minor" may include, but shall not be limited to, any such minor who has the sole responsibility for his own support, who is married or who is in the military.

(Code 1994, § 2.08.305; Ord. No. 09, 2011, § 1, 2-15-2011)

Sec. 2-985. Suspension of sentence and probation.

In sentencing or fining a violator, a municipal judge shall not exceed the sentence or fine limitations established by ordinance. The municipal judge may suspend the sentence or fine, or both, of any violator and place him on probation for a period not to exceed one year.

(Prior Code, § 2-35(b); Code 1994, § 2.08.310; Ord. No. 33, 1992, § 7, 5-19-1992)

Sec. 2-986. Deferred sentencing and costs.

(a) In any case in which the defendant has entered a plea of guilty, the court accepting the plea may, with the written consent of the defendant, his attorney of record and the prosecuting attorney, continue the case for a period not to exceed two years from the date of entry of such plea for the purpose of entering judgment and sentence upon such plea of guilty.

(b) Prior to entry of a plea of guilty to be followed by deferred judgment and sentence, the prosecuting attorney, in the course of plea discussion, is authorized to enter into a written stipulation, to be signed by the defendant, his attorney of record and the attorney under which the defendant obligates himself to adhere to such stipulation. Upon full compliance with the stipulation by the defendant, the plea of guilty previously entered shall be withdrawn and the action against the defendant dismissed with prejudice. Such stipulation shall specifically provide that, upon a breach by the defendant of any condition of the stipulation, the court shall enter judgment and impose sentence upon such guilty plea. Whether a breach of condition has occurred shall be determined by the court without a jury upon application of the prosecuting attorney and upon notice of hearing thereon of not less than five days to the defendant or his attorney of record. Application for entry of judgment and imposition of sentence may be made by the prosecuting attorney at any time within the term of the deferred judgment or within 30 days thereafter.

(c) When a defendant signs a stipulation by which it is, provided that judgment and sentence shall be deferred for a time certain, he thereby waives all rights to a speedy trial as provided by law.

(d) The defendant shall pay a reasonable deferral fee as determined by the municipal court and court costs in addition to the docket fee established in section 2-979.

(Code 1994, § 2.08.315; Ord. No. 62, 1986, § 1, 11-4-1986; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-987. Payment of court costs.

In any case where any person is convicted of any ordinance violation, the municipal court shall give judgment that the offender so convicted shall pay costs. The municipal court shall have power in all cases of conviction when any fine is inflicted to order, as a part of the judgment of the court, that the offender be committed to jail, there to remain until such fine and costs are fully paid or otherwise legally discharged.

(Prior Code, § 2-36(a); Code 1994, § 2.08.320; Ord. No. 15, 1983, § 2, 3-1-1983; Ord. No. 33, 1992, § 8, 5-19-1992; Ord. No. 44, 2008, § 1, 11-4-2008; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-988. Release of indigents for nonpayment.

Whenever it is made to appear satisfactorily to the municipal judge, after all legal means have been exhausted, that any person who is confined in the city jail or other place of confinement for any fine or costs of prosecution for any ordinance offense has no estate whatever wherewith to pay such fine and costs, or costs only, it shall be the duty of the municipal judge to discharge such person from further imprisonment for such fine and costs, which discharge shall operate as a complete release of such fine and costs, provided that nothing in this section shall authorize any person to be discharged from imprisonment before the expiration of the time for which he may be sentenced to be imprisoned as part of his punishment.

(Prior Code, § 2-36(b); Code 1994, § 2.08.330)

Sec. 2-989. Pleas of not guilty.

Except where arraignment and immediate trial are available, the court, in order to eliminate unnecessary court appearances, may provide that a defendant desiring to enter a plea of not guilty may enter his appearance and such a plea at the clerk of the municipal court's office, in person or by his attorney, and have his case assigned for trial at a future date.

(Prior Code, § 2-37(a); Code 1994, § 2.08.340; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-990. Pleas of guilty.

Before a plea of guilty is received, the defendant shall be arraigned in court, as provided in section 2-989, unless the offense is included in a uniform schedule of fines imposed by the court in accordance with the provisions of section 2-993 and the defendant elects such procedure.

(Prior Code, § 2-37(b); Code 1994, § 2.08.350)

Sec. 2-991. Fines in lieu of proceedings.

Under the conditions specified in section 2-992, the municipal court is authorized to establish a procedure for the payment to the municipal court or violations bureau according to a schedule of fines. In such matters, the violations bureau shall act under the direction and control of the municipal court.

(Prior Code, § 2-37(c); Code 1994, § 2.08.360; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-992. Offenses designated by court; exemptions.

The municipal court may, by order, which may from time to time be amended, supplemented or repealed, designate the violations, the penalties for which may be paid at the office of the municipal court or violations bureau. In no event shall the order of reference, or any amendment or supplement thereto, designate for processing any traffic offenses as defined in chapter 9 of title 1 of this Code.

(Prior Code, § 2-37(d); Code 1994, § 2.08.370; Ord. No. 49, §§ 1(part), 2(part), 1988; Ord. No. 26, 2010, § 1, 7-20-2010; Ord. No. 09, 2011, § 1, 2-15-2011)

Sec. 2-993. Posting of schedule.

The municipal court, in addition to any other notice, by published order to be prominently posted in a place where fines are to be paid, shall specify by suitable schedules the amount of fines to be imposed for violations, designating each violation specifically in the schedules. Such fines shall be within the limits declared by ordinance.

(Prior Code, § 2-37(e); Code 1994, § 2.08.380; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-994. Remittance of monies.

All fines, costs and forfeitures of bail collected or received by the municipal court shall be reported and paid, at least monthly, to the director of finance and deposited in the general fund of the city.

(Prior Code, § 2-38; Code 1994, § 2.08.390)

Sec. 2-995. Jury trial.

In any action before the municipal court, in which the defendant is charged with a violation of a municipal ordinance punishable by imprisonment, such defendant shall have a jury trial upon request. The jury shall consist of three jurors unless a greater number, not exceeding six, is requested by the defendant. Any action before the municipal court, in which the defendant is charged with a municipal ordinance violation, not punishable by imprisonment, shall be tried to the court.

(Prior Code, § 2-39(a); Code 1994, § 2.08.400; Ord. No. 49, §§ 1(part), 2(part), 1988; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-996. Demand; jury fee; costs.

For the purposes of this chapter, a defendant waives his right to a jury trial under section 2-995 unless, within 20 days after arraignment or entry of a plea, he files with the court a written jury demand, stating therein the number of jurors requested, and at the same time tenders to the court a jury fee of $25.00, unless the fee is waived by the

judge because of the indigence of the defendant. If the action is dismissed or the defendant is acquitted of the charge, or if the defendant, having paid the jury fee, files with the court at least 14 days before the scheduled trial date a written waiver of jury trial, the jury fee shall be refunded. If, in the 14 days before the scheduled trial date (including the day of trial), the defendant waives his right to trial by jury, pleads guilty or no contest to the charge, pleads guilty to a substituted charge, or fails to appear, the defendant shall pay the actual costs of summoning the jury and jury fees. The municipal court shall compute the costs and fees, applying the $25.00 fee tendered by the defendant, and the court shall assess the balance to the defendant.

(Prior Code, § 2-39(b); Code 1994, § 2.08.410; Ord. No. 63, 1986, § 1, 11-4-1986; Ord. No. 49, §§ 1(part), 2(part), 1998; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-997. Advisement of defendants.

At the time of arraignment for any municipal ordinance violation, the municipal court shall advise any defendant not represented by counsel of the defendant's right to trial. The advisement shall include:

(1) The right to a trial to the court for any municipal offense;

(2) The right to a trial by jury for municipal offenses punishable by imprisonment;

(3) An advisement that, if the defendant is entitled to a jury trial under section 2-995, the jury trial right can only be invoked by demanding a jury trial in writing within 20 days after arraignment or entry of a plea;

(4) The number of jurors allowed by law;

(5) The requirement that the defendant, if he desires to invoke his right to trial by jury, tender to the court within 20 days after arraignment or entry of a plea a jury fee of $25.00 unless the fee is waived by the judge because of the indigence of the defendant; and

(6) If the right to a jury trial is not invoked as described in section 2-995, such right shall be waived and trial set to the court.

(Prior Code, § 2-39(c); Code 1994, § 2.08.420; Ord. No. 49, §§ 1(part), 2(part), 1998; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-998. Qualifications of jurors.

All residents of the city of the age of 18 years, who have not been convicted of a felony, shall be competent to serve as jurors in the municipal court.

(Prior Code, § 2-40(a); Code 1994, § 2.08.430; Ord. No. 33, 1992, § 9, 5-19-1992)

Sec. 2-999. Exemption or excuse.

The municipal judge, in which the trial of the case for which prospective jurors have been summoned, shall have the right, upon good cause being shown, to exempt or excuse any prospective juror from service.

(Prior Code, § 2-40(b); Code 1994, § 2.08.440; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-1000. Jury commissioner designated; deputies.

The jury commissioner of the municipal court shall be the clerk of the municipal court or his designee.

(Prior Code, § 2-41; Code 1994, § 2.08.450; Ord. No. 49, §§ 1(part), 2(part), 1988; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-1001. Prospective juror list.

The jury commissioner shall prepare a list of persons whom he believes may be qualified to serve as jurors.

(Prior Code, § 2-42(a); Code 1994, § 2.08.460; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-1002. Notice; questionnaire.

The jury commissioner shall provide to all persons who are issued a summons to appear as a prospective juror in a case a juror questionnaire containing a list of pertinent and necessary questions to be answered in writing, including the name, age, occupation, residence and such other facts as may show whether a person is qualified to serve as a juror. Each person receiving such questionnaire shall answer truthfully the questions therein contained, in writing, and shall return the questionnaire to the jury commissioner. Every person receiving such questionnaire

and failing to return the same, as provided for in this section, or who answers any of the questions on the questionnaire falsely is guilty of a misdemeanor infraction, and upon conviction thereof, shall be punished as provided in chapter 9 of title 1 of this Code.

(Prior Code, § 2-42(b); Code 1994, § 2.08.470; Ord. No. 22, 1982, § 9(part), 5-4-1982; Ord. No. 48, 1985, § 2, 5-7-1985; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-1003. Selection from list; summoning.

(a) The jury commissioner shall, as soon as the jury list is completed, write the names of the prospective jurors on ballots, one name on each ballot, and shall place such ballots in a box to be kept for that purpose. Upon order of the municipal judge, the jury commissioner shall draw, by chance from the box in which the names had been placed, a sufficient number of jurors for the next term of court.

(b) The selection, maintenance and issuances of summons of juries may also be accomplished by an electronic automated system.

(c) The selection and maintenance of the selection of jury panels by such electronic systems shall be in conformity with random selection formulae and shall be open to public inspection.

(d) When so drawn, the names shall be certified by the jury commissioner to the municipal judge, who shall, when a jury is needed, issue a venire to the jury commissioner to summon the number of jurors the judge deems necessary for the trial of the case or the cases then pending before the court, and shall make the venire returnable as the court may order.

(Prior Code, § 2-42(d)(part); Code 1994, § 2.08.490; Ord. No. 49, §§ 1(part), 2(part), 1988)

Sec. 2-1004. Manner of summoning jurors.

Jurors selected in accordance with the provisions of this chapter shall be summoned to attend upon the court by writ of venire facias directed to the jury commissioner, and such writ may be returnable upon any day of the term as the municipal court shall direct.

(Prior Code, § 2-42(e); Code 1994, § 2.08.510; Ord. No. 49, §§ 1(part), 2(part), 1988; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-1005. Supplemental jury list.

The municipal judge, in his discretion, may direct the jury commissioner to prepare an additional list of persons he believes may be qualified to serve as jurors. The jury commissioner shall thereupon certify to the municipal judge the names of the prospective jurors so drawn. Whenever the panel is exhausted or for any other reason there are not a sufficient number of jurors from the panel available to try the case, the court shall have the power to summon a jury from the bystanders, or the court may issue an open venire.

(Prior Code, § 2-42(f); Code 1994, § 2.08.520; Ord. No. 26, 2010, § 1, 7-20-2010)

Sec. 2-1006. Failure of juror to appear.

If any person who is lawfully summoned to appear before the municipal court as a juror fails, neglects or refuses to appear as required by such summons, without reasonable excuse, he is guilty of contempt and shall be fined or imprisoned as the court may direct. The court shall have the power to issue an attachment directed to the chief of police, commanding him forthwith to bring before such court or judge the body of such juror so failing to attend and to show cause why he should not be punished for contempt, and on the appearance of such juror on such attachment, it shall be lawful for such court or judge to punish him for contempt or wholly discharge him if satisfactory excuse is made.

(Prior Code, § 2-43; Code 1994, § 2.08.530)

Secs. 2-1007--2-1025. Reserved.

CHAPTER 12. ADMINISTRATIVE HEARING OFFICERS

Sec. 2-1026. Administrative hearing officers.

(a) The city manager is authorized and empowered to appoint one or more administrative hearing officers

to hear certain ~~municipal ordinance violations designated as code infractions~~ noncriminal, administrative Code violations and to act as an administrative hearing officer in any other situation as provided for in this Code and as directed by the city manager. The administrative hearing officer shall be an attorney licensed to practice in the state.

(b) Administrative support shall be provided to the administrative hearing officer by the appropriate city personnel as determined by the city manager.

(Code 1994, § 2.09.010; Ord. No. 47, 2006, § 1, 10-17-2006)

Sec. 2-1027. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Default judgment means an order made by the administrative hearing officer finding liability for a Code violation because respondent failed to appear at a hearing, stipulate to a finding of liability, or otherwise defend against a notice of violation.

Indigent means one of the following, either of which must be proven by credible written evidence, including tax returns, W-2 statements, or eligibility statements from a social service agency:

(1) Total household income is at or below 135 percent of the poverty level as determined by the U.S. Department of Health and Human Services; and liquid assets are equal to or less than $1,500.00; or

(2) Total household income is up to 25 percent above the current federal poverty guidelines as published in the Federal Register; liquid assets are equal to or less than $1,500.00; and reasonable monthly expenses equal or exceed monthly income.

Respondent means a person or entity receiving a notice of Code violation.

Sec. 2-1028. Filing of action or notice of violation.

Any action before the administrative hearing officer shall run in the name of the city against a respondent. ~~Any individual or legal entity receiving a notice of violation shall be referred to as a "violator" or "respondent."~~

(Code 1994, § 2.09.020; Ord. No. 47, 2006, § 1, 10-17-2006; Ord. No. 48, 2007, § 1, 8-21-2007; Ord. No. 20, 2012, § 2, 6-5-2012)

Sec. 2-1029. Execution of process.

Service of any paper, including a notice of violation or subpoena, may be executed as provided in this chapter or, if no provision is made, as provided in the Colorado Rules of Civil Procedure.

(Code 1994, § 2.09.030; Ord. No. 47, 2006, § 1, 10-17-2006)

Sec. 2-1030. ~~Docket fees~~ Fees and costs designated.

(a) In the administrative hearing officer's discretion, a docket fee may be assessed against any ~~violator~~ respondent who pleads liable, who enters into a stipulation or settlement agreement or who, after a hearing, is found liable of a code violation ~~infraction in the administrative hearing officer's discretion~~. Docket fees shall be set in accordance with section ~~1.05.010~~ chapter 2 of title 1 of this Code.

(b) Docket fees shall be in addition to any other reasonable hearing costs or other fees designated by the administrative hearing officer, ~~ordinance~~ this Code, or other applicable law.

(c) The costs assessed pursuant to this section may include:

(1) Costs for copies of papers, photos, videos, or other evidence reasonably obtained for use in the case.

(2) Witness fees, mileage for witnesses, and fees for the service of process.

(3) Any item specifically authorized by this Code to be included as part of the costs.

(4) On proper motion of the city and at the discretion of the administrative hearing officer, any other reasonable and necessary costs incurred by the city which are directly the result of the prosecution of the action.

(Code 1994, § 2.09.070; Ord. No. 47, 2006, § 1, 10-17-2006; Ord. No. 26, 2011, § 1, 9-6-2011)

~~**2.09.080. Administrative hearing costs designated.**~~

~~(a) Where any person is found liable of a code infraction violation, the administrative hearing officer shall give judgment in favor of the city and against the violator for the amount of costs and any fine imposed.~~

~~(b) The costs assessed pursuant to subsection (a) of this section may include:~~

~~(1) Any docket fee required by section 2.09.070 of this Code or any other fee required by ordinance to be paid.~~

~~(2) Any fees for exemplification and copies of papers, photos, videos or other evidence reasonably obtained for use in the case.~~

~~(3) Any costs of taking depositions for the perpetuation of testimony, including reporters' fees, any witness fees, expert witness fees, mileage for witnesses and sheriff fees for the service of subpoenas.~~

~~(4) Any statutory fees for service of process or statutory fees for any required publications.~~

~~(5) Any item specifically authorized by ordinance to be included as part of the costs.~~

~~(6) On proper motion of the city and at the discretion of the administrative hearing officer, any other reasonable and necessary costs incurred by the city which are directly the result of the prosecution of the violator.~~

~~(7) Reasonable costs of abating the code infraction, together with an additional administrative fee plus 20 percent for inspections and other incidentals, to cover the city's costs for performing this abatement and to encourage citizen compliance with the Code. The administrative fee authorized by this section shall be set in accordance with section 1.05.010 of this Code.~~

~~(8) Pursuant to an order of the administrative hearing officer, if the violator does not pay the entire amount assessed immediately after sentencing, the violator shall pay to the city an additional one-time time service payment fee. The one time service payment fee authorized by this section shall be set in accordance with section 1.05.010 of this Code. Such time service payment fee may be assessed once per case.~~

~~(9) In addition, there may be assessed against a violator a late payment fee each time a payment of a fine, cost or fee is not received on or before the due date or the extended due date set by the administrative hearing officer. The late payment fee authorized by this section shall be set in accordance with section 1.05.010 of this Code. This fee may be assessed once every 30 days when the violator is delinquent in paying the amount ordered by the administrative hearing officer.~~

~~(10) If the administrative hearing officer determines that the violator does not have the financial resources to pay a time service payment fee or a late payment fee, the administrative hearing officer may waive or suspend a time service payment fee or late payment fee.~~

~~(11) If any amount ordered by the administrative hearing officer, any time service payment fee or any late payment fee is not paid on or before the last date prescribed for payment, interest on such amount at the rate imposed under section 4.04.319 of this Code shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment and shall be determined without regard to any notice and demand for payment issued. Interest prescribed shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as the penalties, fines and costs to which it is applicable.~~

~~(c) Costs imposed pursuant to this section are in addition to any other~~ fines and ~~fees imposed by the administrative hearing officer.~~

~~(Code 1994, § 2.09.080; Ord. 26, 2011 §1; Ord. 10, 2007 §2; Ord. 47, 2006, §1)~~

Sec. 2-1031. Payment of fees and costs.

In any case where ~~any person~~ a respondent is found liable of ~~any code infraction~~ a code violation, the administrative hearing officer shall ~~enter judgment that the offender so found liable shall~~ that respondent pay costs within the limits declared by this chapter, and:

(1) If any amount ordered paid by the administrative hearing officer is not paid on or before the due date for payment, a late payment fee shall be added to the amount owed. A late payment fee may only be assessed once per case.

(2) If any amount ordered paid by the administrative hearing officer, including a late payment fee, is not paid on or before the due date for payment, interest on such amount, excluding the late payment fee, shall accrue at the rate established by C.R.S. § 39-21-110.5.

(3) All amounts due and unpaid, including accrued interest and any late payment fee, shall be paid upon notice and demand and may be collected by the city by any legal means. Where the Code violation involves property and the owner of the property is the respondent, the city may obtain a lien against the property. The lien shall have priority over all liens, except general taxes and prior special assessments. If respondent fails to pay the lien for 30 calendar days, the lien may be certified by the director of finance to the county treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten percent penalty to defray the cost of collection, as provided by state law.

(4) The administrative hearing officer may waive all or a portion of the fines, fees, or costs if the administrative hearing officer determines respondent to be indigent.

(5) All fines, fees, and costs ordered paid by the administrative hearing officer shall be collected by the director of finance and deposited in the general fund of the city.

(Code 1994, § 2.09.090; Ord. No. 47, 2006, § 1, 10-17-2006)

~~**2.09.100. Remittance of monies.**~~

~~All fines, costs and other monies ordered by the administrative hearing officer shall be collected by the director of finance and deposited in the General Fund of the city.~~

~~(Code 1994, § 2.09.100; Ord. 47, 2006, § 1)~~

Sec. 2-1032. General procedures for hearings before administrative hearing officer.

(a) The administrative hearing officer is authorized to adopt rules and procedures governing conduct of hearings in accordance with the provisions of this chapter. The city council manager shall approve all such rules and procedures prior to their adoption by the administrative hearing officer. A copy of the rules and procedures shall be maintained by the city clerk.

(b) Hearings held before the administrative hearing officer shall be informal, but in the administrative hearing officer's discretion may~~, in all other respects,~~ be conducted in the manner provided for the hearing of cases by the municipal court. There shall be no right to a trial by jury. The burden of proof in ~~all administrative proceedings~~ hearings shall be on the city, by a preponderance of the evidence.

(c) There shall be no discovery in Code violation cases and other administrative matters ~~and code infraction cases~~, except that, upon request, prior to the hearing, each party will be allowed to examine any documents, photos, videos and other evidence the other party intends to present at the hearing ~~upon request~~. Each party will be entitled to receive a list of witnesses the other party intends to present at the hearing ~~upon request~~.

(d) All proceedings under this section shall be governed by the Colorado Rules of Civil Procedure and the State Administrative Procedure Act, ~~section 24-4-101, et seq., C.R.S.,~~ except that where the Rules or the ~~Administrative Procedure~~ Act conflicts with the provisions of this Code, the Code shall control.

(e) Code violations may include actions affecting the use, possession, and enjoyment of real property. Accordingly, the city may file and record with the county clerk and recorder a notice of lis pendens against the real property involved to fully inform and protect the interests of any bona fide innocent third-party purchaser.

(f) Respondents in a Code violation case may include the property itself, any person owning or claiming any legal or equitable interest or right of possession in the property, tenants and occupants at the property, and managers and agents for any person claiming a legal or equitable interest in the property. Any person holding any legal or equitable interest or right of possession in the property who has not been named as a party respondent may intervene. No other parties may intervene. None of these parties shall be deemed necessary or indispensable parties

under the Colorado Rules of Civil Procedure.

(g) Code violation cases shall be commenced by providing respondent with a notice of violation.

(h) In all Code violation cases, personal service upon respondent is preferred. Personal service may be made by city personnel. In the event that personal service cannot be made at the location of the violation, the notice of violation may be served upon a respondent by posting a copy of the same in some prominent place on the real property location of the violation, and sending a copy to the owner, tenant, agent, and/or all other persons known to have an interest in the real property by first class mail, at the address shown on the county property portal, at the last-known address given by said person, or at the address listed upon any government-issued identification document bearing the photograph of said person presented to any law enforcement officer or code compliance inspector. Service shall be deemed completed seven calendar days after the copy of the notice of violation is mailed, whether or not the notice is actually received.

(i) No party must, but any party may be represented by an attorney. The city may be represented by the city attorney's office or by those other city personnel authorized to do so by the director of community development. The director of community development shall ensure that any such other personnel authorized to represent the city have received appropriate training.

(j) If respondent appears at the hearing and all elements of an alleged Code violation are proven by a preponderance of the evidence, the administrative hearing officer shall find respondent liable, and enter an appropriate order. If the respondent is found liable, the administrative hearing officer shall assess the appropriate fines, fees, or costs.

(k) If respondent appears at the hearing and any element of an alleged Code violation is not proven by a preponderance of the evidence, the administrative hearing officer shall dismiss the case.

(l) The city may voluntarily stipulate to any remedy deemed appropriate by the parties. Approval of the administrative hearing officer to all stipulations is required.

(m) If respondent fails to appear at the hearing, all elements of a Code violation are deemed proven, the administrative hearing officer shall find respondent liable, and enter a default judgment, including the assessment of appropriate fines, fees, or costs.

(Code 1994, § 2.09.110; Ord. No. 47, 2006, § 1, 10-17-2006; Ord. No. 48, 2007, § 1, 8-21-2007)

Sec. 2-1033. Motions.

(a) The administrative hearing officer may accept motions in his discretion.

(b) Motions must generally comply with the Colorado Rules of Civil Procedure ~~unless another procedure is set forth herein~~.

(c) Motions for post-hearing relief or relief from ~~a judgment or~~ an order of the administrative hearing officer must generally comply with ~~Rules 59 and/or 60 of~~ the Colorado Rules of Civil Procedure.

(d) All motions for post-hearing relief or relief from ~~a judgment or~~ an order must be filed with the administrative hearing officer ~~or presented to the Hearing Officer verbally~~ no later than 15 calendar days following the entry date of the order.

(Code 1994, § 2.09.115; Ord. No. 48, 2007, § 1, 8-21-2007)

~~**2.09.120. Procedures related to code infractions.**~~

~~(a) Code infractions may include actions affecting the use, possession and enjoyment of real property. Accordingly, the city may file and record with the county clerk and recorder a notice of lis pendens against the real property involved to fully inform and protect the interests of any bona fide innocent third party purchaser.~~

~~(b) Parties to action. The violators in a code infraction action may include the property itself, any person owning or claiming any legal or equitable interest or right of possession in the property; all tenants and occupants at the property; all managers and agents for any person claiming a legal or equitable interest in the property; any person committing, conducting, promoting, facilitating or aiding the commission of or flight from a code infraction; and any other person whose involvement may be necessary to abate the code infraction, prevent it from recurring~~

~~or carry into effect the administrative hearing officer's orders.~~

~~__ None of these parties shall be deemed necessary or indispensable parties.~~

~~__ Any person holding any legal or equitable interest or right of possession in the property who has not been named as a party violator may intervene as violator. No other parties may intervene.~~

~~__ Code infraction actions shall be commenced by providing the violator with a notice of violation.~~

~~__ In all code infractions, personal service upon the violator is preferred. Personal service may be made by code enforcement personnel. In the event that personal service cannot be made at the location of the violation, the notice of violation may be served upon a violator via the following:~~

~~__ Service of the notice of violation upon the owner, tenant, agent and/or all other persons claiming a legal or equitable interest or right of possession in real property shall be deemed sufficient if a copy of the same is posted in some prominent place on the real property and sent to the owner, tenant, agent and/or all other persons by first-class mail, at the address as shown by public records, at the last-known address given by said person or at the address listed upon any government-issued identification document bearing the photograph of said person presented to or found by any law enforcement officer or code enforcement officer, whether or not the letter is actually received. Service shall be deemed completed seven calendar days after the letter is mailed.~~

~~__ Service by publication. Violators and unknown persons who may claim an interest in the property who cannot be served by mail as provided above and cannot be served after a good faith and diligent effort to do so may be served by publishing a copy of the notice of violation twice in a newspaper of general circulation within the city. The notice of violation shall describe the property at issue and the place where a copy of the notice of violation and attendant documents can be obtained. A party served by publication shall have 30 calendar days from the date of the last publication to respond.~~

~~__ Neither party must, but either party may, be represented by an attorney. Code infractions may be administratively presented by the city attorney's Office or by those code enforcement personnel authorized to do so by the director of Community Development. The director of Community Development shall ensure that any code enforcement personnel authorized to administratively present code infractions have received appropriate training.~~

~~__ If all elements of a code infraction are proven by a preponderance of the evidence, the administrative hearing officer shall find the violator liable and enter appropriate judgment. If the violator is found liable, the administrative hearing officer shall assess the appropriate sanction and costs as set forth in chapter 1.33 this Code.~~

~~__ If any element of a code infraction is not proven by a preponderance of the evidence, the administrative hearing officer shall dismiss the charge with prejudice.~~

~~__ The parties to an action under this chapter may voluntarily stipulate to any remedy deemed appropriate by the parties. Approval of the administrative hearing officer to all stipulations is required.~~

~~__ The administrative hearing officer may designate those code infractions which may be paid without an appearance. Payment pursuant to this section must be received by 5:00 p.m. at least two business days before the first hearing. Payment may be made to the director of finance or the Building Inspections division.~~

~~__ At the time of payment, the violator shall sign a waiver of rights and acknowledgement of liability upon a form approved by the administrative hearing officer.~~

~~__ This procedure shall constitute an entry of judgment and a final order.~~

~~__ Actions under this chapter for code infractions must be commenced no later than 365 calendar days after the last in the series of acts comprising the code infraction. This limitation period shall not be construed to limit the introduction of evidence of infractions that occurred more than 365 calendar days before the filing of the complaint when relevant for any purpose.~~

~~(Code 1994, § 2.09.120; Ord. 20, 2012 §2; Ord. 48, 2007, § 1; Ord. 47, 2006, § 1)~~

Sec. 2-1034. Order of administrative hearing officer.

(a) At the completion of any hearing held under the provisions of this chapter, or upon presentation of a

stipulation, the administrative hearing officer shall enter an order either:

(1) Dismissing the ~~code infraction~~ case; or

~~__ Making a finding of liability, based upon either a stipulation entered into by the parties, a default judgment or the evidence presented at the hearing, and assessing a sanction against the violator, which sanction shall not exceed the fines established in chapter 1.33 of this Code for code infractions.~~

~~__ A finding of liability entered by the administrative hearing officer shall constitute an entry of judgment and a final action that will only be stayed pending a motion for reconsideration or motion for new hearing.~~

~~__ At the completion of any hearing held under the provisions of this chapter, the administrative hearing officer may issue an order to abate the infraction, which abatement order shall provide that a city code enforcement officer, police officer or his designate may, without a Court order, take reasonable steps to abate an infraction and prevent it from recurring as long as the same may be accomplished without entering any building upon the property.~~

(2) Making a finding of liability, based upon:

a. A stipulation entered into by the parties;

b. A default judgment; or

c. The evidence presented at the hearing.

(b) The order shall also assess:

(1) Fines as established in chapter 10 of title 1 of this Code; and/or

(2) Other legal and equitable relief deemed just and proper by the administrative hearing officer, including abatement pursuant to chapter 10 of title 1 of this Code and/or injunction.

(c) A finding of liability entered by the administrative hearing officer shall constitute a final action that will only be stayed pending a motion for reconsideration.

(Code 1994, § 2.09.130; Ord. No. 47, 2006, § 1, 10-17-2006; Ord. No. 48, 2007, § 1, 8-21-2007; Ord. No. 20, 2012, § 2, 6-5-2012)

~~2.09.135. Emergency abatement.~~

~~__ If, in the judgment of the authorized inspector, a code infraction is a cause of imminent danger to the public health, safety or welfare, the code inspector may request an ex parte emergency abatement order from the administrative hearing officer.~~

~~__ If the administrative hearing officer determines that the code infraction constitutes an imminent danger to the public health, safety or welfare and should be abated, he shall issue an order for emergency abatement. Such order shall be served on the owner of the property immediately pursuant to subsection 2.09.120(d) of this section.~~

~~__ Within 45 calendar days of the date that the property is abated, the city shall notify the owner of the property that the abatement action has taken place, the costs of the abatement and the owner's right to appeal the abatement charges to the administrative hearing officer.~~

~~__ Service of the notice shall be pursuant to subsection 2.09.120(d) of this section.~~

~~__ If the owner wishes to appeal the emergency abatement charges, he must file a notice of appeal with the administrative hearing officer within 14 calendar days of the date of the notice. The Hearing Officer shall set the appeal within 15 days of the receipt of the notice of appeal, and shall issue an order on the owner's appeal within 15 days of the date of the hearing.~~

~~__ If the owner does not appeal the emergency abatement order pursuant to subsection (d) of this section, the costs of abatement shall become final and shall be collected pursuant to subsection 1.33.030(i) of this Code. If the owner appeals, and the abatement is upheld by order of the administrative hearing officer, that order shall constitute a final order and costs shall be collected pursuant to subsection 1.33.030(i).~~

~~__ In addition to requesting an emergency abatement, the city may issue the violator a notice of violation. Proceedings related to the notice of violation shall proceed pursuant to this chapter.~~

~~__ If an emergency abatement is ordered, the violator is not eligible for the stipulation process set forth in~~

~~subsection 1.33.030(b) of this Code.~~

~~(Code 1994, § 2.09.135; Ord. 20, 2012 §1; Ord. 48, 2007, § 1)~~

Sec. 2-1035. Failure to comply with orders of administrative hearing officer.

Failure to comply with any order issued by the administrative hearing officer shall constitute a criminal violation of this Code and a respondent who fails to comply may be subject to prosecution before the municipal court and be penalized pursuant to chapter 9 of title 1 of this Code.

Sec. 2-1036. Record of administrative proceedings.

A record of hearing or other ~~any~~ administrative proceedings shall be made by recording and shall be maintained by the administrative hearing officer ~~or his designate~~. The record shall contain the name of the ~~alleged violator~~ respondent, the date of the appearance before the administrative hearing officer, the ~~complaint~~ case number, the date, place and type of alleged Code ~~code infraction~~ violation and the findings, rulings and orders of the administrative hearing officer. The records and recordings regarding proceedings before the administrative hearing officer shall be maintained by the city clerk's office and shall be retained for 35 calendar days following the final order of the administrative hearing officer if no appeal is filed. In the event an appeal is filed, the records and recordings shall be maintained until final resolution of the matter.

(Code 1994, § 2.09.140; Ord. No. 47, 2006, § 1, 10-17-2006; Ord. No. 46, 2012, § 1, 12-18-2012)

Sec. 2-1037. ~~Appeal of decisions~~ Judicial review of administrative hearing officer's decisions.

(a) The order or action of the administrative hearing officer shall be considered the city's final action and may only be ~~appealed~~ judicially reviewed pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

(b) When an appellant desires to stay ~~the~~ an order or judgment of the administrative hearing officer, ~~he shall execute~~ a bond to the city must be executed in the amount of the fine, fee, and/or costs ordered by the administrative hearing officer ~~in such sum,~~ in such form and with sureties qualified as may be designated by the administrative hearing officer.

(Code 1994, § 2.09.150; Ord. No. 47, 2006, § 1, 10-17-2006)

Secs. 2-1038--2-1057. Reserved.

CHAPTER 13. LOST AND CONFISCATED PROPERTY

Sec. 2-1058. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Lost and confiscated property means:

(1) Property which has been lost by or stolen from the owner thereof and which has been turned over to an employee or department of the city; or

(2) Property which has been confiscated according to law by a police officer of the city and the owner's possession of the property is unlawful or the owner's identity and whereabouts are not known and cannot be reasonably determined by any member of the police department or by any other city employee. This definition shall not be deemed to include pets or other animals.

(Prior Code, § 15-120; Code 1994, § 2.40.010)

Sec. 2-1059. Return to finder; exception.

(a) Lost property deposited with the police department by the finder may be returned to the finder after 90 days upon the application of the finder to the chief of police, or his designee, if such item has not been claimed by the true owner. If the finder is a member of the police department or an employee of the city, the lost property shall be disposed of pursuant to the provisions of section 2-1061.

(b) Upon surrender of found property to the police department, the finder may, at his discretion, execute a finder's claim which shall contain his name, address and telephone number, if any. Failure to notify the police

department of any change to the information on the finder's claim during the 90-day waiting period set out in subsection (a) of this section shall act as an abandonment of his finder's claim.

(Prior Code, § 15-121(a); Code 1994, § 2.40.020; Ord. No. 18, 1993, § 1, 4-20-1993)

Sec. 2-1060. Storage; records.

Until such time as an item of lost or confiscated property has been sold according to the provisions of section 2-1061, reclaimed by the owner or disposed of in accordance with section 2-1059, each item shall be retained in the custody of the chief of police. All such property shall be kept at a facility of the city provided for that purpose and the chief of police shall keep records pertaining to the receipt of all such property. Such records shall be open to public inspection in accordance with open records laws.

(Prior Code, § 15-121(b); Code 1994, § 2.40.030; Ord. No. 46, 2012, § 1, 12-18-2012)

Sec. 2-1061. Public sales; frequency; qualifications of property sold.

(a) The chief of police shall cause to be held public sales at which lost or confiscated property shall be offered for sale to the highest bidders. These sales shall be held as frequently as deemed proper and necessary by the chief of police, but at least one sale shall be held annually. The sales shall be properly noticed to the general public. No item of lost or confiscated property shall be offered at any such regular sale unless that item has been in the custody of the chief of police for three months or more, and any such item which has been in the custody of the chief of police for three months or more shall be offered to sale at the next public sale. The first such sale shall be held not earlier than June 1, 1992. No such item shall be offered for sale which is the subject of any civil or criminal judicial proceeding involving, directly or indirectly, a determination of the ownership of such property. If it is determined in any such civil or criminal judicial proceeding that the individual claiming the ownership or right of possession of such item is not entitled thereto as against the city, such items shall then be offered for sale at the next regularly scheduled public sale.

(b) In lieu of the public sales set out in subsection (a) of this section, the chief of police, with the approval of the city manager, may donate found property to any governmental, charitable, educational, civic or philanthropic organization. Also, such found property may be retained by the police department for training or operational purposes.

(Prior Code, § 15-122; Code 1994, § 2.40.040; Ord. No. 30, 1992, § 3, 5-5-1992; Ord. No. 18, 1993, § 2, 4-20-1993)

Sec. 2-1062. Notice; reclaim right.

A notice of each regular public sale, giving the date, hour, place and general description of the property to be sold, shall be published twice in a newspaper of general circulation in the city. The first publication shall be at least 20 days but not more than 30 days prior to the sale and the second publication shall be at least five days but not more than ten days prior to the sale. Any item of lost or confiscated property can be reclaimed by the owner thereof, or by the person entitled to the possession thereof, at any time prior to the commencement of the public sale.

(Prior Code, § 15-123; Code 1994, § 2.40.050)

Sec. 2-1063. Special sales; notice.

Any item of lost or confiscated property which, in the judgment of the chief of police, will deteriorate substantially if not disposed of prior to the time when the property could be offered for public sale in accordance with section 2-1061, may be offered for sale to the public at a special sale. The special sale may be held at any time, provided that notice of such special sale, setting forth the information specified at section 2-1062, has been published in a newspaper of general circulation in the city at least three days prior to the sale. The proceeds from such special sale shall be kept in a special fund for a period of six months from the date of sale. If, at any time during that six-month period, any person establishes his ownership or right to possession of the item sold, the proceeds from the sale of that item shall be delivered to that person. The special fund shall be administered by the director of finance.

(Prior Code, § 15-124; Code 1994, § 2.40.060)

Sec. 2-1064. Disposition of proceeds.

The proceeds from regular and special sales shall be delivered to the director of finance. He shall pay from

such sale proceeds the expenses of storage, advertisement and sale. The balance of proceeds from regular sales shall be placed into the general fund. Proceeds in the special fund required by section 2-1063 shall be transferred to the general fund after the period for reclaiming such proceeds has passed.

(Prior Code, § 15-125; Code 1994, § 2.40.070)

Sec. 2-1065. Claims barred; exception.

The owner or other person having the right to possession of any item of lost or confiscated property sold at any public sale conducted in accordance or substantially in accordance with the provisions of this chapter shall be barred from asserting any claim against the city or against the proceeds held by the city, from and after the date of the sale, except to the extent provided in section 2-1063 with respect to the proceeds of a special sale claimed within six months.

(Prior Code, § 15-126; Code 1994, § 2.40.080)

Secs. 2-1066--2-1083. Reserved.

CHAPTER 14. UNCLAIMED INTANGIBLE PROPERTY

Sec. 2-1084. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director means the director of finance or designee thereof.

Intangible property means and includes:

(1) Monies, checks, drafts, deposits, interest, dividends, and income;

(2) Credit balances, customer overpayments, gift certificates, refunds and credit memos;

(3) Security deposits and unpaid wages.

Intangible property specifically does not include the following:

(1) Property seized, confiscated or forfeited under color of state or federal authority;

(2) Property ordered forfeited to the city by any court of competent jurisdiction;

(3) Lost and confiscated property, as defined, held and disposed of pursuant to chapter 13 of this title;

(4) Animals, as provided for in title 10 of this Code.

Owner means a person or entity, including the corporation, partnership, association, governmental entity other than the city, or a duly authorized legal representative or successor of the same, whose name appears on the records of the city as the person entitled to property held, issued, or owing by the city.

Unclaimed property is any intangible property, as defined above, of another person which is held by the city and which remains unclaimed by the owner for more than one year after it became due and owing to that owner.

(Code 1994, § 2.41.010; Ord. No. 46, (part), 1992; Ord. No. 34, 2017 § 1(exh. A), 10-3-2017)

Sec. 2-1085. Exceptions.

Title to the following property shall be in the city without recourse to the administrative procedures provided in this chapter:

(1) Property seized, confiscated or forfeited under color of state or federal authority;

(2) Property ordered forfeited to the city by any court of competent jurisdiction;

(3) Any property addressed in chapter 13 of this title or Title 10 of this Code.

(Code 1994, § 2.41.020; Ord. No. 46, (part), 1992)

Sec. 2-1086. Disposition of unclaimed intangible property.

(a) Prior to disposition of any intangible property having an estimated value of $50.00, or more, the director

shall send a written notice by regular or certified mail, to the last-known address, if any, of any owner of unclaimed property. The last-known address of the owner shall be the last address of the owner as shown by the records of the municipal department or 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 director with a written claim for the return of the property within 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. If no address is known by the city or the mailed notice is returned as undeliverable, the director shall publish notice once in a newspaper of general circulation in the city and post notice on the city's ~~world-wide~~ website during the 60-day period in which the owner is allowed to apply for the property.

(b) Prior to disposition of any unclaimed property having an estimated value of less than $50.00, or having no last-known address of the owner, or the mailed notice is returned as undeliverable, the director shall cause a notice to be published in a newspaper of general circulation in the city and post notice on the city's ~~world-wide~~ website. The notice shall include a description of the property, the owner of the property, and the amount or estimated value of the property. 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 director with a written claim for the return of the property within 60 days of the date of the publication of the notice, or the date the notice is published on the city's ~~world-wide~~ website, 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 director receives no written claim within the above 60-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 director receives a written claim within a 60-day claim period, the director shall evaluate the claim and give written notice to the claimant within 90 days thereof that the claim has been accepted or denied in whole or in part. The director 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 claimant for the same property, the director may, in the director's 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.

(Code 1994, § 2.41.030; Ord. No. 46, (part), 1992; Ord. 34, 2017 § 1(exh. A), 10-3-2017)

Sec. 2-1087. Appeals.

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

(Code 1994, § 2.41.040; Ord. No. 46, (part), 1992)

Sec. 2-1088. Duties and authority of director.

The director is authorized to establish and administer procedures of the administration and disposition of unclaimed property consistent with this chapter, including compliance requirements for other municipal officers and employees in the identification and disposition of such property.

(Code 1994, § 2.41.050; Ord. No. 46, (part), 1992)

Secs. 2-1089--2-1114. Reserved.

CHAPTER 15. CIVIL DEFENSE

Sec. 2-1115. Power of mayor.

The mayor shall have the power to promulgate, in writing, rules and regulations which are reasonably

necessary for the protection of life and property within the city from dangers created or increased by any emergency or for a coordinated and efficient program of civilian defense. Such rules and regulations may concern, but shall not be limited to, the following subjects:

(1) Authorization, recruiting and training of volunteer defense workers;

(2) Defense of the city and its inhabitants against air raids, including warnings to be given, blackouts and care of persons and property during the same;

(3) Prevention of sabotage of property within the city;

(4) Designation of appropriate symbols to be used by authorized defense workers and organizations and by no other persons or organizations.

(Prior Code, § 2-73; Code 1994, § 2.42.010)

Sec. 2-1116. Liability denied for authorized persons or those complying with chapter.

This chapter and all things done by authority of the same, or by authority of any rules or regulation promulgated under this chapter, shall constitute the exercise by the city of its governmental functions; and the city, its officers, authorized persons and organizations, as provided for in this chapter, and any persons complying with this chapter or with the rules and regulations promulgated by authority thereof, shall not be liable for any damage sustained by any person or property as a result of the enforcement or compliance with this chapter, or any such rule or regulation.

(Prior Code, § 2-74; Code 1994, § 2.42.020; Ord. No. 70, 2002, § 1, 12-17-2002)

Title 3

RESERVED

Title 4

PERSONNEL

CHAPTER 1. CLASSIFICATION AND SALARY PLAN

Sec. 4-1. Scope of plan.

(a) All ~~existing~~ employees of the city, as defined in this section, shall be assigned to and shall fill the positions provided for in the classification and salary plan, referred to in this chapter as the plan, and more fully prescribed by this chapter. ~~required by section 3.04.020. All employees of the city hired after the effective date of the ordinance codified in this chapter shall be employed to fill positions provided for by the Classification and Salary Plan.~~

(b) The amounts budgeted each year for the salaries of all city employees and the amounts of salaries actually paid shall be determined by reference to, and shall be within the limits of, the salary schedules of the ~~Classification and Salary~~ plan.

(c) For the purposes of this chapter, employees means all city employees, including the city manager, assistant city manager, city attorney, assistant city attorneys, municipal judge, all department heads and directors, and all other employees whose salaries are negotiated at the direction of the city council, city manager or city attorney.

(Prior Code, § 9B-11; Code 1994, § 3.04.010; Ord. No. 36, 1990, § 1(part), 6-26-1990)

Sec. 4-2. Plan mandated, contents.

An annual salary plan shall be in effect for all employees of the city, including those covered by civil service. The ~~salary~~ plan shall contain salary ranges for all positions of employment. Each salary range shall be set in accordance with the method outlined in the benchmark classification system.

(Prior Code, § 9B-12; Code 1994, § 3.04.020; Ord. No. 11, 1983, (part), 2-15-1983; Ord. No. 36, 1990, § 1(part), 6-26-1990)

Sec. 4-3. Plan adoption, amendment.

Each year's salary rates shall be adopted by separate ordinance at the same time the annual city budget is adopted. Such rates will be used to determine budgeted salary costs for each budget year. These rates will be documented in a pay plan for reference purposes.

(Prior Code, § 9B-13; Code 1994, § 3.04.030; Ord. No. 11, 1983, (part), 2-15-1983; Ord. No. 36, 1990, § 1(part), 6-26-1990)

Sec. 4-4. Keeping and maintenance of plan.

The plan ~~annual schedule of pay ranges and steps for all classified positions~~ shall be kept in the custody of the city clerk and shall be available to the public. A copy ~~schedule~~ shall also be kept available in the department of human resources for inspection by city employees.

(Prior Code, § 9B-15; Code 1994, § 3.04.050; Ord. No. 11, 1983, (part), 2-15-1983; Ord. No. 67, 2001, § 4, 8-7-2001)

Secs. 4-5--4-26. Reserved.

CHAPTER 2. PENSION PLAN

Sec. 4-27. Pension plan terms.

(a) No employee or retired employee shall have any right to a pension under the plan except as such pension has accrued to him in accordance with the terms of the plan, and then only to the extent of the adequacy of the monies available which may be applied for his benefit in accordance with the plan.

(b) Establishment of the plan shall not be construed to give any employee the right to be retained in the

service of the city.

(Prior Code, § 9A-40; Code 1994, § 3.12.010)

Sec. 4-28. Maintenance of pension plan.

The city will make available a pension plan to all employees other than civil service employees. This pension plan is to serve as a supplement to social security. The pension will be a defined contribution plan paid for by the city with employees having the right to contribute a portion of their earnings on a voluntary basis. The specifics of the plan and any modifications to the plan, including changing to a new plan, will be addressed by council resolution.

(Code 1994, § 3.12.015; Ord. No. 11, 1983, (part), 2-15-1983)

Sec. 4-29. Immunity of pensions.

To the maximum extent permitted by law, no pension under the plan shall be subject in any manner to alienation, sale, transfer, assignment, pledge, attachment or encumbrance of any kind.

(Prior Code, § 9A-41; Code 1994, § 3.12.020)

~~**Sec. 3.12.030. Interpretation of terms.**~~

~~Words in the masculine gender shall include the feminine gender, the singular shall include the plural and vice versa, unless qualified by the context. Any headings used herein are included for ease of reference only and are not to be construed so as to alter any of the terms hereof.~~

~~(Code 1994, § 3.12.030; Prior Code, § 9A-42)~~

Sec. 4-30. Construction and administration.

The plan shall be construed according to the laws of the state and the city Charter, and all the provisions of the plan shall be administered according to such laws and Charter; all persons accepting or claiming benefits under the plan shall be deemed to consent to the provisions of such laws and Charter.

(Prior Code, § 9A-43; Code 1994, § 3.12.040)

~~**Sec. 3.12.050. Definitions.**~~

~~The definitions of the terms used in the plan will be contained in the plan policy document.~~

~~(Code 1994, § 3.12.050; Ord. No. 11, (part), 1983; Prior Code, § §9A-2—9A-10)~~

Sec. 4-31. Administration.

The plan will be administered by the city. Subject to the plan and the group annuity contract between the city and the funding agent, the decision of the city upon any questions of fact, interpretation, definition or administration under the plan shall be conclusive, but each employee shall be granted the same treatment under similar conditions.

(Prior Code, § 9A-11; Code 1994, § 3.12.060)

Secs. 4-32--4-50. Reserved.

CHAPTER 3. CIVIL SERVICE

ARTICLE I. CIVIL SERVICE COMMISSION

Sec. 4-51. Civil service system adopted.

The civil service system, as authorized by section 11-5(a) of the city Charter, is adopted with respect to sworn or certified positions in the fire and police departments of the city.

(Prior Code, § 9-1(a); Code 1994, § 3.16.010; Ord. No. 51, 1981, § 2, 7-7-1981; Ord. No. 11, 1983, (part), 2-15-1983)

Sec. 4-52. Hiring rules; suspension.

Notwithstanding the provisions of this Code and regulations adopted pursuant thereto, all ordinances, regulations and rules relating to the examination and hiring of employees within the civil service system established pursuant to Charter section 11-5 and this chapter shall be suspended during any emergency declared by the mayor

for the immediate preservation or protection of public health, property or safety.

(Prior Code, § 9-1(b); Code 1994, § 3.16.015; Ord. No. 51, 1981, § 3, 7-7-1981)

Sec. 4-53. Commission established; composition; terms.

There is established in and for the city a civil service commission (hereinafter referred to as the commission) appointed by the city council.

(Prior Code, § 9-2(a); Code 1994, § 3.16.020; Ord. No. 70, 2002, § 1, 12-17-2002)

Sec. 4-54. Powers; investigation.

The commission shall have the power to investigate all complaints arising under this chapter and all alleged breaches of this chapter and of its rules; and in the course of such investigation to subpoena witnesses, administer oaths, compel the testimony of witnesses and the production of books, papers and records relevant to such inquiry; and it shall be the duty of any person so subpoenaed to appear and testify and produce such books, papers and records as are called for in such subpoena.

(Prior Code, § 9-4(1); Code 1994, § 3.16.060)

Sec. 4-55. Rulemaking and interpretation.

The commission shall have the power to formulate and endorse rules to carry out the purpose of this chapter, all ordinances or resolutions supplementary hereto and the relevant laws of the state, and to amend or cancel such rules. All such rules and regulations shall be consistent with the provisions of this chapter, all ordinances or resolutions supplementary hereto and the laws of the state. The power to make such rules shall include the power to interpret and construe the provisions of this chapter or supplementary ordinances.

(Prior Code, § 9-4(2); Code 1994, § 3.16.070)

Sec. 4-56. Investigation; advice.

The commission shall have the power to act in an advisory capacity to the city council in all matters concerning the administration of personnel problems of civil service employees in the fire and police departments. The commission shall undertake investigations reasonably related to such personnel problems, and in conducting such investigations shall have the power to require the presence of witnesses and documents or other evidence and to issue subpoenas for such purpose.

(Prior Code, § 9-4(3); Code 1994, § 3.16.080; Ord. No. 11, 1983, (part), 2-15-1983)

Sec. 4-57. Publication of rules and regulations.

The commission shall have the power to print and electronically prepare for distribution all rules and regulations, changes therein or revisions thereof, provided in this chapter to be made, and to furnish a copy thereof to each officer or body having the right to appoint or employ any person to any office, position or employment within the classified service.

(Prior Code, § 9-4(4); Code 1994, § 3.16.090; Ord. No. 77, 2007, § 1, 12-18-2007)

Sec. 4-58. Standards and qualifications formulation.

The commission shall have the power to formulate appropriate minimum standards and qualifications for each class of civil service positions within the fire and police departments, which standards and qualifications shall not be contrary to the provisions of this chapter or any ordinance or resolution passed and adopted by the city council supplementary hereto.

(Prior Code, § 9-4(5); Code 1994, § 3.16.100; Ord. No. 11, 1983, (part), 2-15-1983)

Sec. 4-59. Publication of announcement.

The commission shall have the power to publish announcements of vacancies and examinations, and of the acceptance of applications for employment.

(Prior Code, § 9-4(6); Code 1994, § 3.16.110)

Sec. 4-60. Examination and rating of applicants.

The commission shall have the power to prepare and conduct or contract for the preparation and conducting of job-related competitive examinations to ascertain the merit and fitness of the applicants for each position within the classified service. Such examination shall be absolutely impartial, practical in character and will give paramount regard to matters which will fairly test the relative capacity and fitness of the person examined for the service. The commission will enroll the names of as many as it shall deem advisable of those receiving the highest rating in such examinations upon the eligible list for the position for which each was examined, indicating thereon the rating received by such person. Such examinations and eligibility list determinations shall follow the precepts of the city's affirmative action plan.

(Prior Code, § 9-4(7); Code 1994, § 3.16.120; Ord. No. 11, 1983, (part), 2-15-1983)

Sec. 4-61. Requisitions for personnel.

The commission shall have the power to provide the form in which requisitions may be made upon the commission by persons or bodies having the power to appoint, employ, transfer or promote to employments, offices or positions within a classified service.

(Prior Code, § 9-4(8); Code 1994, § 3.16.130)

Sec. 4-62. Certification of applicants.

The commission shall have the power to certify, upon proper requisition of the city manager as provided in this chapter, the names of persons, as indicated by the proper list, eligible for the position, employment or office specified in the requisition. Certification shall be made in the order of priority of rating, beginning with the highest rating and in accordance with adopted civil service regulations.

(Prior Code, § 9-4(9); Code 1994, § 3.16.140; Ord. No. 11, 1983, (part), 2-15-1983)

Sec. 4-63. Provisional, temporary or emergency appointments.

The commission shall have the power to examine and classify as to rating, or to contract for the examination and classification as to rating, of applicants for provisional, temporary or emergency appointments or employments and, upon proper requisition of the city manager, to certify the names of such applicants, together with the recommendation of the commission concerning such applicants.

(Prior Code, § 9-4(10); Code 1994, § 3.16.150)

Sec. 4-64. Evaluation; access to records; annual report.

The commission shall have the power to appropriately investigate and evaluate the service of civil service employees in either the fire or police department, whether during the twelve-month initial introductory/probationary period or after. Minutes of the meetings of the commission shall be kept in such a manner as to preserve them for the requisite records retention period and, together with the civil service roster, shall be open to the public at all reasonable times. Individual records of qualified employees, examination forms and completed examinations shall be confidential records for the use of the commission and the city manager only; except that the same shall be made available to the city council upon review of commission action and available to the public in accordance with open records laws.

(Prior Code, § 9-4(11); Code 1994, § 3.16.160; Ord. No. 11, 1983, (part), 2-15-1983; Ord. No. 77, 2007, § 2, 12-18-2007; Ord. No. 46, 2012, § 1, 12-18-2012)

Sec. 4-65. Contracting for services.

The commission shall have the power to contract with the legislative body or governing board of any other municipality or county within the state or any other department of the state, or with private organizations, agencies or consultants, for the conducting of competitive examinations to ascertain the fitness of applicants for civil service positions and employment in the fire and police departments and for the performance of any other service in connection with personnel selection and administration.

(Prior Code, § 9-4(12); Code 1994, § 3.16.1770; Ord. No. 46, 1981, § 1, 6-2-1981; Ord. No. 11, 1983, (part), 2-15-1983)

Secs. 4-66--4-88. Reserved.

ARTICLE II. SELECTION AND EMPLOYMENT

Sec. 4-89. Fraudulent practices.

No person shall willfully or corruptly, by himself or in cooperation with one or more persons, defeat, deceive or obstruct any person in respect to his right of examination; falsely mark, grade, estimate or report upon the examination or proper standing of any person examined under this chapter; aid in so doing or make any false representation concerning the same or concerning the person examined; furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any persons so examined or to be examined; or impersonate another person or permit or aid another person to impersonate him, in any publication, examination or registration.

(Prior Code, § 9-6; Code 1994, § 3.16.190)

Sec. 4-90. Political or religious matters.

No statement in any application, recommendation or question in any examination shall relate to political or religious opinions or affiliations, and no appointment or selection to office or employment within the scope of this chapter shall be in any manner affected or influenced by such opinions or affiliation.

(Prior Code, § 9-7(part); Code 1994, § 3.16.200)

Sec. 4-91. Refusal to examine or certify; grounds.

The commission may refuse to examine or, after examination, to certify an applicant who is found to lack any stated preliminary requirement, established by rule, for the examination or employment for which applied. The commission shall not refuse to examine or certify persons with regard to race, color, creed, sex, age, religion or disability unless such age or disability is a bona fide occupational qualification. The commission may refuse to certify or hire an applicant who has intentionally made a false statement of any material fact, or who has attempted to practice any deception or fraud in the application or the examination or in securing eligibility or appointment, or for any other valid reason which would render the applicant unfit for the employment sought.

(Prior Code, § 9-7(part); Code 1994, § 3.16.210; Ord. No. 11, 1983, (part), 2-15-1983; Ord. No. 77, 2007, § 3, 12-18-2007)

Sec. 4-92. Hiring and promotion power of city manager.

Subject to the civil service and personnel provisions of the city Charter, the city manager shall make all appointments, employments and promotions, which appointments, employments and promotions shall be made in accordance with city rules and regulations, including, but not limited to, the employee handbook and any applicable contract. Such appointments, employments and promotions, however, shall be made only in accordance with the provisions of this chapter or ordinances supplementary to this chapter and with the rules and regulations of the commission established pursuant to this chapter, and only such appointments, employments and promotions made in accordance with such provisions, rules and regulations shall be binding and effective. It is the purpose of this chapter that all appointments, employments and promotions in the fire and police departments be made according to the merit and fitness of the persons so appointed, employed or promoted, as ascertained by the competitive tests of competency provided under this chapter.

(Prior Code, § 9-8; Code 1994, § 3.16.220; Ord. No. 77, 2007, § 4, 12-18-2007; Ord. No. 20, 2011, § 1, 8-2-2011)

Sec. 4-93. Status of existing employees.

All persons holding regular positions or employment in the fire department or police department who, on the effective date of the ordinance from which this chapter is derived, are serving in such positions shall not, by reason of enactment of this chapter, lose their employment status.

(Prior Code, § 9-9; Code 1994, § 3.16.230)

Sec. 4-94. Oath of office.

Before entering upon the duties of his office, every police officer and firefighter elected or appointed shall take and subscribe before the city clerk, municipal judge, or other individual authorized to administer oaths, and

file with the city clerk, an oath or affirmation that he will support the Constitutions of the United States and of the state and the ordinances of the city, and faithfully perform the duties of the office which he is about to enter.

(Prior Code, § 9-11(d); Code 1994, § 3.16.280; Ord. No. 77, 2007, § 5, 12-18-2007)

Sec. 4-95. Progressive discipline for nonintroductory employees.

The concept of progressive discipline for all employees excepting employees in the 12-month initial probationary/introductory period shall be followed as outlined in the employee handbook. Employees in the initial 12-month probationary/introductory period do not have access to the appeal process. Serious infractions may receive more severe disciplinary action commensurate with the infractions. Degrees of discipline are those set forth in the employee handbook.

(Code 1994, § 3.16.290; Ord. No. 8, 1982, § 3(part), 2-2-1982; Ord. No. 77, 2007, § 6, 12-18-2007)

Sec. 4-96. Appeal procedures.

(a) Disciplinary appeals.

(1) The disciplinary appeal procedure for nonprobationary/introductory employees is set forth in the employee handbook. In addition to those procedures outlined in the employee handbook, sworn police and fire employees who are not in their introductory period shall be entitled to the procedure set forth below.

(2) Appeals of discharges and suspensions in excess of seven days shall be appealable to the commission following the decision of the city manager. In cases involving discharges and suspensions in excess of seven days, the appeal to the commission shall include an adjudicatory hearing before the commission, and the decision of said commission shall be final.

(3) At all steps of the appeal procedure, the reviewing official and/or commission shall be vested with the authority to frame a remedy appropriate to resolve the disciplinary matter, except that the extent or severity of the discipline may not be increased for the offense or infraction giving rise to the initial discipline.

(4) All appeals and answers shall be reduced to writing, except the first step in all cases.

(b) Fire promotion appeals.

(1) Appeals of promotion decisions are appealable pursuant to the fire union contract.

(2) Appeals of promotion decisions shall be appealable to the commission following the decision of the city manager. The appeal to the commission shall include an adjudicatory hearing before the commission and the decision of said commission shall be final.

(Code 1994, § 3.16.320; Ord. No. 8, 1982, § 3(part), 2-2-1982; Ord. No. 77, 2007, § 9, 12-18-2007; Ord. No. 20, 2011, § 1, 8-2-2011)

Sec. 4-97. Time limits for appeals.

(a) Appeals of disciplinary action must be initiated within those time frames set forth in the employee handbook.

(b) Appeals of promotion decisions in the fire service must be initiated within those time frames set forth in the fire contract.

(c) In cases properly appealable to the commission, if the appellant is not satisfied with the decision of the city manager, the appellant must submit the written appeal to the commission through the secretary of the commission within seven calendar days of receipt of the city manager's written decision. The commission shall, within 14 calendar days of receipt of the written appeal, schedule a hearing on the matter and within seven calendar days of the hearing shall render its decision in writing to the appellant, which decision shall be final.

(d) The time limits set forth above may be extended by mutual agreement between the appellant and the appropriate management representative or the commission at the respective step where an extension of time is needed.

(Code 1994, § 3.16.330; Ord. No. 8, 1982, § 3(part), 2-2-1982; Ord. No. 77, 2007, § 10, 12-18-2007; Ord. No. 20, 2011, § 1, 8-2-2011)

Sec. 4-98. Representation.

At all steps of the appeal procedure, the appellant may be represented by counsel or another individual designated by the appellant. The city attorney or his designee shall represent the city.

(Code 1994, § 3.16.340; Ord. No. 8, 1982, § 3(part), 2-2-1982; Ord. No. 77, 2007, § 11, 12-18-2007)

Sec. 4-99. Commission hearings.

(a) All hearings before the commission shall be adjudicatory in nature, with evidence, witnesses, written briefs and arguments presented by the parties as determined appropriate by the commission.

(b) All such hearings shall be conducted informally, and the legal rules of evidence shall not apply.

(c) The written findings and recommendation or order of the commission shall be given to the appellant and his designated representative, with a copy to the secretary of the commission to place with the employee's personnel records, to the city manager and to the city clerk for a report to the city council.

(d) All hearings before the commission under this section shall be closed to the public unless, at the time of the appeal, the employee concerned shall request in writing that such hearing be open.

(e) A record shall be made of all evidence and proceedings before the commission, with the expense borne equally by the city and appellant. If a transcript is requested, the expense of such transcript shall be borne by the party so requesting and a copy shall be supplied to the other party.

(f) Decisions of the commission must be reached by at least two members of the commission.

(Code 1994, § 3.16.350; Ord. No. 8, 1982, § 3(part), 2-2-1982; Ord. No. 77, 2007, § 12, 12-18-2007)

Sec. 4-100. Demotion by city; eligibility for promotion.

Demotion shall be made when the city council authorizes a reduction in the number of employees in a classification because of a lack of work or a shortage of funds. Demotions in such cases shall be to the next lower classification and the salary shall also be reduced to the respective salary schedule. Employees shall be demoted in reverse order of their length of service in the classification. Such demotions shall not be considered disciplinary and the employee concerned shall be eligible for promotion to his former classification without further examination for a period of one year should the city council appropriate funds for increasing the number of employees in such classification.

(Prior Code, § 9-12.2(a); Code 1994, § 3.16.380)

Sec. 4-101. Demotion at request of employee.

Demotion shall be granted at the request of any employee when assignment to less difficult or responsible work would be to his advantage and to the best interest of the city service and when there is a vacancy in the classification desired.

(Prior Code, § 9-12.2(b); Code 1994, § 3.16.390)

Sec. 4-102. Layoff; status of employees.

Layoffs in the classified service shall not be considered to be a disciplinary action but shall only be authorized when the city council authorizes a reduction in the number of employees because of a lack of work or the shortage of funds. In such instances, layoffs shall be made in accordance with policies set forth in the employee handbook and any applicable employment contracts.

(Prior Code, § 9-12.3; Code 1994, § 3.16.400; Ord. No. 77, 2007, § 13, 12-18-2007)

Sec. 4-103. Resignation.

It is requested that an employee resigning his position shall give a minimum of two weeks' notice, in writing, of his intention.

(Prior Code, § 9-12.4; Code 1994, § 3.16.410; Ord. No. 77, 2007, § 14, 12-18-2007)

Sec. 4-104. Employment roster; contents.

The secretary of the commission shall maintain in his office, as a public record, a complete roster of all persons in the civil service affected by this chapter. The roster shall show in connection with each name the date of appointment, employment, promotion, reduction or reinstatement, compensation, title of the position and nature of the duties thereof, and the date and causes of any termination of such employment.

(Prior Code, § 9-13; Code 1994, § 3.16.420)

Sec. 4-105. Political activity restricted.

Any person placed under the civil service system in the fire or police department, pursuant to the provisions of this chapter, shall comply with the employee handbook regarding political activities.

(Prior Code, § 9-14; Code 1994, § 3.16.430; Ord. No. 77, 2007, § 15, 12-18-2007)

Secs. 4-106--4-123. Reserved.

ARTICLE III. COLLECTIVE BARGAINING

Sec. 4-124. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bargaining agent means an organization selected by a majority of the police officers, except sergeants, commanders, deputy chiefs and the chief of police, by secret ballot and certified by the city council as the sole and exclusive agent for the police officers, except sergeants, commanders, deputy chiefs and the chief of police for the purpose of collective bargaining pursuant to city Charter section 14-4.

Bargaining unit means the civil service employees of the police department, except sergeants, commanders, deputy chiefs and the chief of police.

Petition for the decertification of a bargaining agent or certification of the currently certified bargaining agent means a written statement filed with the city clerk bearing the information required in section 4-125 or 4-126.

(Prior Code, § 9-15(a); Code 1994, § 3.16.440; Ord. No. 11, 1983, (part), 2-15-1983; Ord. No. 57, 2018, § 1, 12-18-2018)

Sec. 4-125. Petition for certification election; requirements.

Any organization or individual may file with the city clerk a petition requesting an election for the certification of a bargaining agent other than the certified bargaining agent if such petition contains the following:

(1) A statement alleging that the currently certified bargaining agent no longer represents a majority of the members of the bargaining unit, that those who have signed the petition desire another specified organization to represent them, and that they request that the organization be placed on the ballot at a certification election;

(2) The name, address and telephone number of the currently certified bargaining agent and the expiration date of the current contract, if one so exists, with the currently certified bargaining agent;

(3) The name, address, telephone number and organization affiliation of the individual or organization circulating the petition; and

(4) The name, signatures and date of signature of at least 30 percent of the members of the bargaining unit. All signatures on the petition must have been placed there within the 90 days immediately prior to the filing of the petition with the city clerk.

(Prior Code, § 9-15(b); Code 1994, § 3.16.450)

Sec. 4-126. Petition for decertification election; requirements.

Any organization or individual may file with the city clerk a petition requesting an election for the decertification of the currently certified bargaining agent if such petition contains the following:

(1) A statement alleging that the currently certified bargaining agent no longer represents a majority of the

members of the bargaining unit, that those who have signed the petition desire that the currently certified bargaining agent no longer represent them as their sole and exclusive agent, and that those who have signed the petition request an election for decertification of the currently certified bargaining agent;

(2) The name, address and telephone number of the currently certified bargaining agent and the expiration date of the current contract, if one so exists, with the currently certified bargaining agent;

(3) The name, signatures and date of signature of at least 30 percent of the members of the bargaining unit. All signatures on the petition must have been placed there within the 90 days immediately prior to the filing with the city clerk.

(Prior Code, § 9-15(c); Code 1994, § 3.16.460)

Sec. 4-127. Filing times of election petitions.

No petitions of the types described in sections 4-125 and 4-126 may be filed with the city clerk within a period of one year of the date of an election for a bargaining agent held pursuant to section 11-3 of the city Charter.

(Prior Code, § 9-15(d); Code 1994, § 3.16.470)

Sec. 4-128. Finding by city council; election procedure.

Upon the receipt of any petition of a type described in sections 4-125 and 4-126, the city clerk shall, as soon as practical, present such petition to the city council with an indication of whether the signatures on the petition represent 30 percent of the members of the bargaining unit. The city council shall make a finding as to whether or not the petition meets the criteria set forth above in sections 4-125 and 4-126. If the petition meets the criteria, the city council shall direct the city clerk to conduct an election by secret ballot among the members of the bargaining unit and report back to the city council the results of the election. The election ballot shall include the name of the organization in whose name the petition was circulated, the name of the currently recognized bargaining agent and the choice of no representation.

(Prior Code, § 9-15(e); Code 1994, § 3.16.480)

Sec. 4-129. Certification of bargaining agent; status.

Upon acceptance of the city clerk's report of an election held pursuant to section 4-128, the city council shall certify as bargaining agent that organization for which a majority of the members of the bargaining unit has voted. If a majority is not received by an organization on the ballot, the city council shall not certify any organization as bargaining agent. Once a bargaining agent has been certified by the city council, it shall remain certified until an election in the manner described in section 4-128 has been held to replace or decertify that bargaining agent.

(Prior Code, § 9-15(f); Code 1994, § 3.16.490)

Secs. 4-130--4-156. Reserved.

CHAPTER 4. FIRE AND POLICE PENSIONS

Sec. 4-157. Pensions to follow state provisions.

The pension fund for the policemen and firefighters of the city shall be as set forth in the state statutes, which provide for such pensions.

(Prior Code, § 2-51; Code 1994, § 3.20.010; Ord. No. 43, 1980, § 3, 6-3-1980)

Sec. 4-158. Association with fire and police pension association.

The city elects to affiliate its local fire and police pension plan for all firefighters whenever hired and police officers hired prior to April 8, 1978, with the fire and police pension association on January 1, 1981. The city further elects to withdraw police officers hired after April 8, 1978, from the fire and police pension association (FPPA) on January 1, 1985, and to enter into a defined contribution plan for those employees. All firefighters and police officers, whenever hired, shall retain their coverage under the fire and police pension association for disability retirement and survivor benefits as specified by state statute.

(Code 1994, § 3.20.020; Ord. No. 53, 1980, § 1, 6-17-1980; Ord. No. 7, 1985, § 1, 1-22-1985)

Sec. 4-159. Police pension board.

The city has elected to withdraw from the state fire and police pension association and has created a police pension board which shall be responsible for the general supervision, management and control of the Police Officers' Defined Contribution Pension Plan.

(Code 1994, § 3.20.030; Ord. No. 39, 2002, § 1, 5-21-2002)

Sec. 4-160. Police pension board organization.

(a) *Membership*. Composition of the police pension board shall include seven members consisting of three elected police officers from the active participant ranks, a representative of the city finance department, a representative of the city manager's office, the mayor or a city councilperson and one person from the business community. Any vacancies shall be filled for the unexpired term of any member whose place has become vacant. The board shall annually elect one of the appointive members as chair, which shall be an elected police officer and one of the appointive members as vice chair.

(b) *Terms*. The current mayor or city councilperson shall serve on the board as well as a representative of the community, appointed by the mayor, along with the current city manager or city manager's representative and finance director or representative. Upon enactment of the ordinance codified herein, of the three elected police officers, one shall initially serve a one-year term, one shall initially serve a two-year term and one shall initially serve a three-year term. Thereafter, each elected police officer shall serve for a three-year term. All board members shall serve without compensation and shall continue to serve until their successors have been appointed. The city council shall have the power to remove any member of the board for cause.

(c) *Meetings*. A majority of the membership of the entire board shall constitute a quorum to do business. All decisions of the board require a majority vote of those present. The board shall prescribe the time and place of its meetings at an hour to be fixed from time to time as set by the board, but in no event shall the board meet less than four times per year. The time and place of the meetings shall not conflict with scheduled city council functions. The board shall keep records of all public meetings, which records shall become a public record.

(Code 1994, § 3.20.040; Ord. No. 39, 2002, § 1, 5-21-2002)

Sec. 4-161. Rules of procedure.

The board shall conduct its proceedings in accordance with Robert's Rules of Order and may set forth additional rules of procedure as necessary in a separate document.

(Code 1994, § 3.20.050; Ord. No. 39, 2002, § 1, 5-21-2002)

Secs. 4-162--4-181. Reserved.

CHAPTER 5. SOCIAL SECURITY

Sec. 4-182. City to provide coverage.

The city, by and through its proper officials, is authorized to execute and deliver to the state division of employment a plan and agreement, all as required under section five of House Bill No. 291 of the 38th General Assembly of the state of Colorado and the Federal Social Security Act, to extend coverage to all except civil service employees of the city and do all other necessary things to effectuate coverage of employees under the federal old age and survivors' insurance system.

(Prior Code, § 2-47; Code 1994, § 3.24.010; Ord. No. 11, 1983, (part), 2-15-1983)

Sec. 4-183. Agreement authorized; effective date.

Authority is given to the mayor and the city clerk to enter into an agreement with the state division of employment, which agreement shall be in accordance with House Bill No. 291 and with subsection 218 of the Social Security Act. Such plan and agreement shall provide that the participation of the city in the benefits and under such act shall be in effect as of October 1, 1951.

(Prior Code, § 2-48; Code 1994, § 3.24.020; Ord. No. 11, 1983, (part), 2-15-1983)

Sec. 4-184. Payroll deductions; delinquent payments.

The finance director shall, and he is authorized to, establish a system of payroll deductions to be matched by payments by the city, to be made into the contribution fund of the Social Security Act through the state division of employment, and to make charges to this tax to the funds from which wage or salary payments are issued to employees of the city. Such payments shall be made in accordance with the provisions of section 1400 of the Federal Insurance Contribution Act on all services which constitute employment within the meaning of such act. Such payments, made to the state division of employment, shall be due and payable in accordance with state law.

(Prior Code, § 2-49; Code 1994, § 3.24.030; Ord. No. 11, 1983, (part), 2-15-1983)

Sec. 4-185. Appropriation for payment.

Appropriation is made from the proper funds of the city in the necessary amount to pay into the contribution fund as provided in section 3(c)(1) of the Enabling Act (House Bill No. 291, 38th General Assembly) and in accordance with the plan or plans and agreement, as the same may be hereafter executed.

(Prior Code, § 2-50; Code 1994, § 3.24.040)

Title 5

RESERVED

Title 6

REVENUE AND FINANCE

CHAPTER 1. RETAIL SALES AND USE TAX

ARTICLE I. GENERALLY

Sec. 6-1. Short title.

This chapter, together with chapters 2 of this title and chapter 4 of title 12 of this Code, may be known and cited as the "City Retail Sales and Use Tax Ordinance."

(Code 1994, § 4.04.005; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-2. Legislative intent.

(a) It is the intent of the city council in enacting this chapter that every person in the city who purchases at retail, leases, consumes, stores or puts to any use any tangible personal property is exercising a taxable privilege. All sales, leases and purchases of tangible personal property defined in this chapter are taxable unless specifically exempted in this chapter. The sales tax imposed on tangible personal property by this chapter applies to each transfer of ownership, possession and control of such property and may occur more than once during the life of the property.

(b) The sales tax is a transaction tax levied upon all sales, purchases and leases of tangible personal property sold or leased by persons engaged in business in the city and is collected by the vendor or lessor and remitted to the city. The use tax is levied upon the privilege of persons in the city to use, store or consume tangible personal property located in the city, whether purchased or leased inside or outside the city limits, and not subject to the sales tax imposed by this chapter. The use tax shall be collected and remitted as provided in this chapter, and is to be paid by the person using, storing or consuming the tangible personal property. The use tax is a complement to the sales tax, and its purpose is to equalize competition between in-city and out-of-city vendors and lessors of tangible personal property and to eliminate incentives for city residents to leave the city to purchase or lease tangible personal property.

(Code 1994, § 4.04.006; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-3. Purpose of tax; disposition of proceeds.

The city council declares that the purposes of the levy of the taxes imposed in this chapter are for capital improvements and for the raising of funds for the payment of the expenses of operating the city; and in accordance with these purposes, the proceeds of such taxes shall first be applied as provided in ordinances authorizing the issuance of bonds or other obligations for capital improvements and expenses incidental thereto, payable from the sales and use taxes or any portion or combination thereof; and any remaining proceeds of such taxes not required to be otherwise applied by such bond ordinances shall be placed in and become a part of the general fund of the city or such other funds or accounts as the city council may direct.

(Code 1994, § 4.04.010; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-4. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural producer means a person regularly engaged in the business of using land for the production of commercial crops or commercial livestock. The term "agricultural producer" includes farmers, market gardeners, commercial fruit growers, livestock breeders, dairymen, poultrymen, and other persons similarly engaged, but does not include a person who breeds or markets animals, birds, or fish for domestic pets nor a person who cultivates, grows or harvests plants or plant products exclusively for that person's own consumption or casual sale.

Aircraft means a device that is used or intended to be used for flight in the air.

Aircraft part means any tangible personal property that is intended to be permanently affixed or attached as a component part of an aircraft.

Aircraft simulator means a flight simulator training device (FSTD), as defined in CFR title 14, pt. I, that is qualified in accordance with CFR title 14, pt. 60 for use in a Federal Aviation Administration Approved Flight Training Program.

Aircraft simulator part means any tangible personal property that is originally designed and intended to be permanently affixed or attached as a component part of an aircraft, and which will also function when it is permanently affixed or attached as a component part of an aircraft simulator.

Airline company means any operator who engages in the carriage by aircraft of persons or property as a common carrier for compensation or hire, or the carriage of mail, or any aircraft operator who operates regularly between two or more points and publishes a flight schedule. The term "airline company" shall not include operators whose aircraft are all certified for a gross takeoff weight of 12,500 pounds or less and who do not engage in scheduled service or mail carriage service.

Auction means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is, in fact, the owner thereof.

Automotive vehicle means any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. The term "automotive vehicle," includes, but is not limited to, motor vehicles, trailers, or semi-trailers. The term "automotive vehicle" shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

Business means all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

Candy means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. The term "candy" does not include any preparation containing flour, products that require refrigeration or marijuana-infused products.

Carrier access services means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

Charitable organization means any entity which has been certified as a nonprofit organization under section 501(c)(3) of the Internal Revenue Code, and is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons or animals, and thereby lessens the burden of government.

City or *town* means the municipality of City of Greeley.

Coin-operated device means any device operated by coins or currency or any substitute therefor.

Coins means monetized bullion or other forms of money manufactured from gold, silver, platinum, palladium or other such metals now, in the future or heretofore designated as a medium of exchange under the laws of the state, the United States or any foreign nation.

Collection costs includes, but is not limited to, all costs of audit, assessment, bank fees, hearings, execution, lien filing, distraint, litigation, locksmith fees, auction fees and costs, prosecution and attorney fees.

Commercial packaging materials means containers, labels, and/or cases, that become part of the finished product to the purchaser, used by or sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use, and is not returnable to said person for reuse. The term "commercial packaging materials" does not include commercial shipping materials.

Commercial shipping materials means materials that do not become part of the finished product to the purchaser which are used exclusively in the shipping process. The term "commercial shipping materials" includes, but is not limited to, containers, labels, pallets, banding material and fasteners, shipping cases, shrink wrap, bubble wrap or other forms of binding, padding or protection.

Community organization means a nonprofit entity organized and operated exclusively for the promotion of social welfare, primarily engaged in promoting the common good and general welfare of the community, so long as no part of the net earnings of which inures to the benefit of any private shareholder or individual; no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Construction equipment means any equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, demolish, repair, remodel, or otherwise make improvements to any real property, building, structure or infrastructure.

Construction materials means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a structure or project including public and private improvements. Construction materials include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral and inseparable part of completed structure or project are not construction materials.

Consumer means any person in the city who purchases, uses, stores, distributes or otherwise consumes tangible personal property or taxable services, purchased from sources inside or outside the city.

Contract auditor means a duly authorized agent designated by the taxing authority and qualified to conduct tax audits on behalf of and pursuant to an agreement with the municipality.

Contractor means any person who shall build, construct, reconstruct, alter, expand, modify, or improve any building, dwelling, structure, infrastructure, or other improvement to real property for another party pursuant to an agreement. For the purposes of this definition, the term "contractor" also includes subcontractor.

Cover charge means a charge paid to a club or similar entertainment establishment which may, or may not, entitle the patron paying such charge to receive tangible personal property, such as food and/or beverages.

Data processing equipment means any equipment or system of equipment used in the storage, manipulation, management, display, reception or transmission of information.

Digital product means an electronic product, including, but not limited to:

(1) The term *digital images* means works that include, but are not limited to, the following that are generally recognized in the ordinary and usual sense as photographs, logos, cartoons, or drawings;

(2) The term *digital audio-visual works* means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

(3) The term *digital audio works* means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones. For the purposes of the definition of the term "digital audio works," the term "ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication; and

(4) The term *digital books* means works that are generally recognized in the ordinary and usual sense as books.

Distribution means the act of distributing any article of tangible personal property for use or consumption, which may include, but not be limited to, the distribution of advertising gifts, shoppers' guides, catalogs, directories, or other property given as prizes, premiums, or for goodwill or in conjunction with the sales of other commodities or services.

Dual residency means those situations, including, but not limited to, where a person maintains a residence, place of business or business presence, both within and outside the city. A person shall be deemed to have established a legitimate residence, place of business or business presence outside of the city for the purposes of dual

residency if the person has a physical structure owned, leased or rented by such person which is designated by street number or road location outside of the city, has within it a telephone in the name of such person and conducts business operations on a regular basis at such location in a manner that includes the type of business activities for which the business (person), as defined in this Code, is organized.

Dwelling unit means a building or any portion of a building designed for occupancy as complete, independent living quarters for one or more persons, having direct access from the outside of the building or through a common hall and having living, sleeping, kitchen and sanitary facilities for the exclusive use of the occupants.

Engaged in business in the city means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption, within the city. Engaged in business in the city, includes, but is not limited to, any one of the following activities by a person:

(1) Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;

(2) Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;

(3) Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;

(4) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or

(5) Makes more than one delivery into the taxing jurisdiction within a 12-month period by any means other than a common carrier.

Factory-built housing means a manufactured home or modular home.

Farm closeout sale means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

Farm equipment means any farm tractor, as defined in C.R.S. § 42-1-102(33), any implement of husbandry, as defined in C.R.S. § 42-1-102(44), and irrigation equipment having a per unit purchase price of at least $1,000.00. The term "farm equipment" also includes, regardless of purchase price, attachments and bailing wire, binders twine and surface wrap used primarily and directly in any farm operation. The term "farm equipment" also includes, regardless of purchase price, parts that are used in the repair or maintenance of the farm equipment described in this subsection, all shipping pallets, crates, or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications. The term "farm equipment" also includes, regardless of purchase price, dairy equipment. Except for shipping pallets, crates or aids used in the transfer or shipping of agricultural products, the term "farm equipment" does not include:

(1) Vehicles subject to the registration requirements of C.R.S. § 42-3-103, regardless of the purpose for which such vehicles are used;

(2) Machinery, equipment, materials, and supplies used in a manner that is incidental to a farm operation;

(3) Maintenance and janitorial equipment and supplies; and

(4) Tangible personal property used in any activity other than farming, such as office equipment and supplies and equipment and supplies used in the sale or distribution of farm products, research, or transportation.

Farm operation means the production of any of the following products for profit, including, but not limited to, a business that hires out to produce or harvest such products:

(1) Agricultural, viticultural, fruit, and vegetable products;

(2) Livestock;

(3) Milk;

(4) Honey; and

(5) Poultry and eggs.

Finance director means the finance director of the city or such other person designated by the municipality; the term "finance director" shall also include such person's designee.

Food for home consumption means food for domestic home consumption, as defined in 7 USC 2012(k)(2014), as amended, for the purposes of the supplemental nutrition assistance program, or any successor program, as defined in 7 USC 2012(t), as amended; except that food does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow foods; prepared salads and salad bars; packaged and unpackaged cold sandwiches; deli trays; and hot or cold beverages served in unsealed containers or cups that are vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor.

Garage sales means sales of tangible personal property, except automotive vehicles, occurring at the residence of the seller, where the property to be sold was originally purchased for use by members of the household where such sale is being conducted. The term "garage sales" includes, but is not limited to, yard sales, estate sales, and block sales.

Gross sales means the total amount received in money, credit, property or other consideration valued in money for all sales, leases, or rentals of tangible personal property or services.

Internet access services means services that provide or enable computer access by multiple users to the Internet, but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of Internet access services.

Internet subscription service means software programs, systems, data and applications available online through rental, lease or subscription, that provide information and services, including, but not limited to, data linking, data research, data analysis, data filtering or record compiling.

License means a city business license.

Linen services means services involving the provision and cleaning of linens, including, but not limited to, rags, uniforms, coveralls and diapers.

Machinery means any apparatus consisting of interrelated parts used to produce an article of tangible personal property. The term "machinery" includes both the basic unit and any adjunct or attachment necessary for the basic unit to accomplish its intended function.

Manufactured home means any preconstructed building unit or combination of preconstructed building units, without motive power, where such unit is manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit is not licensed as a vehicle.

Manufacturing means the operation or performance of an integrated series of operations which places a product, article, substance, commodity, or other tangible personal property in a form, composition or character different from that in which it was acquired whether for sale or for use by a manufacturer. The change in form, composition or character must result in a different product having a distinctive name, character or use from the raw or prepared materials.

Medical marijuana means marijuana acquired, possessed, cultivated, manufactured, delivered, transported, supplied, sold, or dispensed to a person who qualifies as a patient with a debilitating medical condition under article XVIII, section 14, of the state constitution, and which person holds a valid registry identification card issued by the state pursuant to Colorado Constitution, article XVIII, section 14.

Mobile home means any wheeled vehicle having an overall width not exceeding eight feet and an overall length, excluding towing gear and bumpers, of not less than 26 feet and not more than 32 feet, without motive power, which is designed and generally and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which may occasionally be drawn over the public highways by a motor vehicle.

Mobile machinery and self-propelled construction equipment means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over

the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally-operated or moved over the public highways. The definition of the term "mobile machinery and self-propelled construction equipment" includes, but is not limited to, wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches.

Modular home means any structure that consists of multiple sections fabricated, formed or assembled in manufacturing facilities for installation and assembly at the building site, and is constructed to the building codes adopted by the state division of housing, created in C.R.S. § 24-32-706, and is designed to be installed on a permanent foundation.

Motor fuel means gasoline, casing head or natural gasoline, benzol, benzene and naphtha, gasohol and any other liquid prepared, advertised, offered for sale, sold for use or used or commercially usable in internal combustion engines for the generation of power for the propulsion of motor vehicles upon the public highways. The term "motor fuel" does not include fuel used for the propulsion or drawing of aircraft or railroad cars or railroad locomotives.

Newspaper means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term "newspaper" does not include magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

Online garage sales means sales of tangible personal property, except automotive vehicles, occurring online, where the property to be sold was originally purchased for use by the seller or members of the seller's household.

Parent means a parent of a student.

Person means any individual, firm, partnership, joint venture, corporation, limited liability company, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

Photovoltaic system means a power system designed to supply usable solar power by means of photovoltaics, a method of converting solar energy into direct current electricity using semiconducting materials that create voltage or electric current in a material upon exposure to light. It consists of an arrangement of several components, including solar panels to absorb and convert sunlight into electricity, a solar inverter to change the electric current from DC to AC, as well as mounting, cabling, metering systems and other electrical accessories to set up a working system.

Precious metal bullion means any precious metal, including, but not limited to, gold, silver, platinum, and/or palladium, that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content and not its form.

Prepress preparation material means all materials used by those in the printing industry, including, but not limited to, airbrush color photos, color keys, dies, engravings, light-sensitive film, light-sensitive paper, masking materials, Mylar, plates, proofing materials, tape, transparencies, and veloxes, which are used by printers in the preparation of customer specific layouts or in plates used to fill customers' printing orders, which are eventually sold to a customer, either in their original purchase form or in an altered form, and for which a sales or use tax is demonstrably collected from the printer's customer, if applicable, either separately from the printed materials or as part of the inclusive price therefor. Materials sold to a printer which are used by the printer for the printer's own purposes, and are not sold, either directly or in an altered form, to a customer, are not included within this definition.

Preprinted newspaper supplements shall mean inserts, attachments or supplements circulated in newspapers that are primarily devoted to advertising; and the distribution, insertion, or attachment of which is commonly paid for by the advertiser.

Prescription drugs for animals means a drug which, prior to being dispensed or delivered, is required by the Federal Food, Drug, and Cosmetic Act, 21 USC 301 et seq., as amended, to state at a minimum the symbol "Rx Only," and is dispensed in accordance with any order in writing, dated and signed by a licensed veterinarian specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

Prescription drugs for humans means a drug which, prior to being dispensed or delivered, is required by the Federal Food, Drug, and Cosmetic Act, 21 USC 301 et seq., as amended, to state at a minimum the symbol "Rx Only," and is dispensed in accordance with any written or electronic order dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

Price or *purchase price* means the aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the federal government or by this article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if:

(1) Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or

(2) Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

The term "price" or "purchase price" includes:

(1) The amount of money received or due in cash and credits.

(2) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.

(3) Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.

(4) The total price charged on credit sales including finance charges which are not separately stated at the time of sale. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated at the time of sale is not part of the purchase price.

(5) Installation, applying, remodeling or repairing the property, delivery and wheeling-in charges included in the purchase price and not separately stated.

(6) Transportation and other charges to effect delivery of tangible personal property to the purchaser.

(7) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.

(8) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

The term "price" or "purchase price" shall not include:

(1) Any sales or use tax imposed by the state or by any political subdivision thereof.

(2) The fair market value of property exchanged if such property is to be sold thereafter in the retailers' usual course of business. This is not limited to exchanges in the state. Out-of-state trade-ins are an allowable adjustment to the purchase price.

(3) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser, and the seller is not reimbursed for the discount by the manufacturer or someone else. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

Private communications services means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate inter-communications system for the subscriber's stations.

Prosthetic devices for animals means any artificial limb, part, device or appliance for animal use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed veterinarian. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

Prosthetic devices for humans means any artificial limb, part, device or appliance for human use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed practitioner of the healing arts. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

Purchase or *sale* means the acquisition for any consideration by any person of tangible personal property, other taxable products or taxable services that are purchased, leased, rented, sold, used, stored, distributed, or consumed. The term "purchase" or "sale" includes capital leases, installment and credit sales, and property and services acquired by:

(1) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property, other taxable products, or taxable services;

(2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property, other taxable products, or taxable services; the utilization of coin-operated devices, except coin-operated telephones, which do not vend articles of tangible personal property shall be considered short-term rentals of tangible personal property;

(3) Performance of taxable services; or

(4) Barter or exchange for other tangible personal property, other taxable products, or services.

The term "purchase" or "sale" does not include:

(1) A division of partnership assets among the partners according to their interests in the partnership;

(2) The transfer of assets of shareholders in the formation or dissolution of professional corporations, if no consideration, including, but not limited to, the assumption of a liability is paid for the transfer of assets;

(3) The dissolution and the pro rata distribution of the corporation's assets to its stockholders, if no consideration, including, but not limited to, the assumption of a liability is paid for the transfer of assets;

(4) A transfer of a partnership or limited liability company interest;

(5) The transfer of assets to a commencing or existing partnership or limited liability company, if no consideration, including, but not limited to, the assumption of a liability is paid for the transfer of assets;

(6) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;

(7) The transfer of assets from a parent company to a subsidiary company or companies which are owned at least 80 percent by the parent company, which transfer is solely in exchange for stock or securities of the subsidiary company;

(8) The transfer of assets from a subsidiary company or companies which are owned at least 80 percent by the parent company to a parent company or to another subsidiary which is owned at least 80 percent by the parent company, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

(9) The transfer of assets between parent and closely held subsidiary companies, or between subsidiary companies closely held by the same parent company, or between companies which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this article was paid by the transferor company at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor company. To such an extent, any transfer referred to in this subsection (9) shall constitute a sale. For the purposes of this subsection (9), a closely held subsidiary corporation is one in which the parent company owns stock

possessing or membership interest at least 80 percent of the total combined voting power of all classes of stock entitled to vote and owns at least 80 percent of the total number of shares of all other classes of stock.

Rail carrier means as the term is defined in USC title 49 § 10102 as of October 10, 2013, and as it may be amended hereafter.

Rail carrier part means any tangible personal property that is originally designed and intended to be permanently affixed or attached as a component part of a locomotive or rail car used by a rail carrier.

Recreation services means all services relating to athletic or entertainment participation events and/or activities, including, but not limited to, pool, golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin-operated amusement devices, video games and video club memberships.

Renewable energy means any energy resource that is naturally regenerated over a short time scale and derived directly from the sun (such as thermal, photochemical, and photoelectric), indirectly from the sun (such as wind, hydropower, and photosynthetic energy stored in biomass), or from other natural movements and mechanisms of the environment (such as geothermal and tidal energy). The term "renewable energy" does not include energy resources derived from fossil fuels, waste products from fossil sources, or waste products from inorganic sources.

Resident means a person who resides or maintains one or more places of business within the city, regardless of whether that person also resides or maintains a place of business outside of the city.

Retail sales means all sales except wholesale sales.

Retailer means any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. The term "retailer" shall include, but is not limited to, any:

(1) Auctioneer;

(2) Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;

(3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes;

(4) Retailer-contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property.

Retailer-contractor means a contractor who is also a retailer of building supplies, construction materials, or other tangible personal property, and purchases, manufactures, or fabricates such property for sale (which may include installation), repair work, time and materials jobs, and/or lump sum contracts.

Return means any form prescribed by the city administration for computing and reporting a total tax liability.

Sale that benefits a Colorado school means a sale of a commodity or service from which all proceeds of the sale, less only the actual cost of the commodity or service to a person or entity as described in this Code, are donated to a school or a school-approved student organization.

Sales tax means the tax that is collected or required to be collected and remitted by a retailer on sales taxed under this Code.

School means a public or nonpublic school for students in kindergarten through 12th grade or any portion thereof.

Security system services means electronic alarm and/or monitoring services. The term "security system services" does not include non-electronic security services such as consulting or human or guard dog patrol services.

Soft drink means a nonalcoholic beverage that contains natural or artificial sweeteners. The term "soft drink" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than 50 percent of vegetable or fruit juice by volume.

Software as a service means software that is rented, leased or subscribed to from a provider and used at the consumer's location, including, but not limited to, applications, systems or programs.

Software license fee means a fee charged for the right to use, access, or maintain software programs.

Software maintenance agreement means an agreement, typically with a software provider, that may include provisions to maintain the right to use the software; provisions for software upgrades including code updates, version updates, code fix modifications, enhancements, and added or new functional capabilities loaded into existing software; or technical support.

Software program means a sequence of instructions that can be measured, interpreted and executed by an electronic device (e.g., a computer, tablets, smart phones) regardless of the means by which it is accessed or the medium of conveyance. The term "software program" includes:

(1) Custom software program, which is a software program prepared to the special order or specifications of a single customer;

(2) Pre-written software program, which is a software program prepared for sale or license to multiple users, and not to the special order or specifications of a single customer. Pre-written software is commonly referred to as canned, off-the-shelf (COTS), mass produced or standardized;

(3) Modified software, which means pre-written software that is altered or enhanced by someone other than the purchaser to create a program for a particular user; and

(4) The generic term "software," "software application," as well as "updates," "upgrades," "patches," "user exits," and any items which add or extend functionality to existing software programs.

Solar thermal systems means a system whose primary purpose is to use energy from the sun to produce heat or cold for:

(1) Heating or cooling a residential or commercial building;

(2) Heating or cooling water; or

(3) Any industrial, commercial, or manufacturing process.

Sound system services means the provision of broadcast or pre-recorded audio programming to a building or portion thereof. The term "sound system services" does not include installation of sound systems where the entire system becomes the property of the building owner or the sound system service is for presentation of live performances.

Special fuel means kerosene oil, kerosene distillate, diesel fuel, all liquefied petroleum gases, and all combustible gases and liquids for use in the generation of power for propulsion of motor vehicles upon the public highways. The term "special fuel" does not include fuel used for the propulsion or drawing of aircraft, railroad cars or railroad locomotives.

Special sales event means any sales event which includes more than three vendors taking place at a single location for a limited period of time not to exceed seven consecutive days.

Storage means any keeping or retention of, or exercise dominion or control over, or possession of, for any length of time, tangible personal property not while in transit but on a standstill basis for future use when leased, rented or purchased at retail from sources either within or without the city from any person or vendor.

Student means any person enrolled in a school.

Tangible personal property means personal property that can be one or more of the following: seen, weighed, measured, felt, touched, stored, transported, exchanged, or that is in any other manner perceptible to the senses.

Tax means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

Tax deficiency or *deficiency* means any amount of tax, penalty, interest, or other fee that is not reported and/or not paid on or before the date that any return or payment of the tax is required under the terms of this Code.

Taxable sales means gross sales less any exemptions and deductions specified in this Code.

Taxable services means services subject to tax pursuant to this Code.

Taxpayer means any person obligated to collect and/or pay tax under the terms of this Code.

Telecommunications service means the service of which the object is the transmission of any two-way interactive electronic or electromagnetic communications, including, but not limited to, voice, image, data and any other information, by the use of any means but not limited to, wire, cable, fiber optical cable, microwave, radio wave, voice over internet protocol (VoIP), or any combinations of such media, including any form of mobile two-way communication. The term "telecommunications service" does not include separately stated non-transmission services which constitute computer processing applications used to act on the information to be transmitted.

Television and entertainment services means audio or visual content that can be transmitted electronically by any means, for which a charge is imposed.

Therapeutic device means devices, appliances, or related accessories that correct or treat a human physical disability or surgically created abnormality.

Toll free telecommunications service means a telecommunications service that allows a caller to dial a number without incurring an additional charge for the call.

Total tax liability means the total of all tax, penalties and/or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

Transient/temporary sale means a sale by any person who engages in a temporary business of selling and delivering goods within the city for a period of no more than seven consecutive days.

Transient/temporary vendor means any person who engages in the business of transient/temporary sales.

Use means the exercise, for any length of time by any person within the city of any right, power or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the city from any person or vendor or used in the performance of a contract in the city whether such tangible personal property is owned or not owned by the taxpayer. The term "use" also includes the withdrawal of items from inventory for consumption.

Use tax means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the city.

Wholesale sales means a sale by wholesalers to retailers, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale; latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this chapter.

Wholesaler means any person doing an organized wholesale or jobbing business and selling to retailers, jobbers, dealers, or other wholesalers, for the purpose of resale, and not for storage, use, consumption, or distribution.

(Code 1994, § 4.04.015; Ord. No. 35, 2017 § 1(exh. A, B), 10-17-2017)

~~**Editor's note**— Ord. No. 35, 2017 § 1(exh. A, B), adopted Oct. 17, 2017, repealed and reenacted § 4.04.015 as set out herein. The former § 4.04.015 pertained to similar subject matter and derived from Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 49, 2009, § 1, 10-20-2009; Ord. 07, 2011 §1.~~

~~**Sec. 6-5. Reserved.**~~

~~**Editor's note**— Ord. No. 44, 2016 § 1, adopted Dec. 20, 2016, repealed § 4.04.020, which pertained to retail license and tax in addition to others and derived from Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991.~~

Secs. 6-5--6-28. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 6-29. Director of finance; duties.

The administration of this chapter and chapters 2 of this title and chapter 2 of title 10 is vested in the director of finance, who shall prescribe forms and reasonable rules and regulations in conformity with this chapter and chapters 2 of this title and chapter 2 of title 10, for the making of returns, for the ascertainment, assessment and collection of the taxes imposed under this chapter and for the proper administration and enforcement of this chapter and chapters 2 of this title and chapter 2 of title 10.

(Code 1994, § 4.04.025; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 36, 2017 § 1(exh. A), 10-17-2017)

Sec. 6-30. Rules and regulations authority.

To provide uniform methods of adding the tax or the average equivalent thereof to the selling price, authority is granted to the director of finance to formulate and promulgate, after hearing, appropriate rules and regulations to effectuate the purpose of this chapter and chapters 2 of this title and chapter 2 of title 10.

(Code 1994, § 4.04.030; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 36, 2017 § 1(exh. A), 10-17-2017)

Sec. 6-31. Penalty waiver authority.

The director of finance is authorized to waive, for good cause shown, any penalty assessed as provided in this chapter and chapter 2 of title 10; and any interest imposed in excess of six percent per year shall be deemed a penalty.

(Code 1994, § 4.04.035; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 36, 2017 § 1(exh. A), 10-17-2017)

Sec. 6-32. Notices; requirements for sufficiency.

Except as otherwise provided in this chapter, all notices required to be given to the retailer or vendor shall be in writing and, if mailed postpaid by certified mail, return receipt requested, to him at his last-known address, shall be sufficient.

(Code 1994, § 4.04.040; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-33. Limitations period; tolling.

(a) The taxes for any period, together with interest thereon and penalties with respect thereto, shall not be assessed, nor shall any notice of lien be filed, distraint warrant be issued, suit for collection be instituted or any other action to collect the same be commenced, more than three years from the date on which the tax was or is payable.

(b) For taxes assessed before the expiration of such period, where a notice of lien has been filed prior to the expiration of such period, in which cases such lien shall continue for one year after the filing of notice thereof.

(c) The commencement of collection proceedings, including the mailing of a notice of audit, shall toll the running of the limitations period set forth in subsection (a) of this section.

(Code 1994, § 4.04.045; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 36, 2017 § 1(exh. A), 10-17-2017)

Sec. 6-34. Exception to limitations period.

In case of a false or fraudulent return with intent to evade tax, and in the case of failure to file a return, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time.

(Code 1994, § 4.04.050; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 36, 2017 § 1(exh. A), 10-17-2017)

Sec. 6-35. Extension of limitations period.

Before the expiration of the periods of limitation provided for in sections 6-33 and 6-34, the taxpayer and the director of finance may agree in writing to an extension of the limitations period.

(Code 1994, § 4.04.055; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 36, 2017 §1(exh. A), 10-17-2017)

Secs. 6-36--6-50. Reserved.

ARTICLE III. TAXATION

Division 1. General Provisions

Sec. 6-51. Sales and use tax returns; extensions.

(a) The director of finance may require any person, by regulation or notice served on such person, to make additional returns, render statements, keep and furnish records or make information reports as deemed sufficient to show whether or not such person is liable under this chapter for payment or collection of tax imposed herein.

(b) As a convenience to the taxpayer, the city shall use the standard municipal sales and tax use reporting form and any subsequent revisions thereto adopted by the executive director of the department of revenue by the first full month commencing 120 days after the effective date of the regulation adopting or revising such standard form.

(c) The director of finance may extend the time for making returns and paying the taxes due under such reasonable rules and regulations as he may prescribe, but no such extension shall be for a period greater than is provided in section 6-53.

(Code 1994, § 4.04.170; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-52. Burden of proving exemptions.

The burden of proof that any retailer is exempt from collecting a tax upon any goods sold and paying the same to the director of finance or from making such returns shall be on the retailer or vendor under such reasonable requirements of proof as the director of finance may prescribe.

(Code 1994, § 4.04.175; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-53. Alternative scheduling of reports.

If the accounting methods regularly employed by the vendor in the transaction of his business, or other conditions, are such that reports of sale made on a calendar-month basis will impose unnecessary hardship, the director of finance may, upon request of the vendor, accept reports at such intervals as will, in his opinion, better suit the convenience of the taxpayer and will not jeopardize the collection of the tax.

(Code 1994, § 4.04.180; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-54. Returns for multiple-location businesses.

A retailer doing business in two or more places or locations taxable under this chapter may file one return covering all such business activities in the city.

(Code 1994, § 4.04.185; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-55. Information from returns confidential; exceptions.

Except in accordance with judicial order or as otherwise provided in this chapter, the director of finance, his agents, clerks and employees shall not divulge any information gained from any return filed under provisions of this chapter.

(Code 1994, § 4.04.265; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-56. Production of information restricted.

Except as otherwise specified in this chapter, the officials charged with the custody of returns filed under the provisions of this chapter shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the director of finance in an action under the provisions of this chapter to which he is a party, or on behalf of any party to an action or proceeding under the provisions of this chapter or to punish a violator thereof when the report of facts shown by such report is directly involved in such action or proceeding, in either of which event the court may require the production of, and may admit in evidence, as much of the returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more.

(Code 1994, § 4.04.270; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-57. Permitted uses of information.

Nothing contained in this chapter shall be construed to prohibit the delivery to a person or his duly authorized representative of a copy of any return or report filed by that person in connection with this tax, or to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, nor to prohibit the inspection by the city attorney or any other legal representative of the city of the report or return of any person who brings action to set aside or review the tax based thereon, or against whom an action or proceeding is contemplated or has been instituted under this chapter.

(Code 1994, § 4.04.275; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-58. Preservation of reports and returns.

Reports and returns shall be preserved for three years and thereafter until the director of finance orders them destroyed.

(Code 1994, § 4.04.280; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-59. Divulgence of confidential information; unlawful.

Any city officer or employee, or any member of the office or officer or employee of the director of finance who divulges any information classified in this chapter as confidential, in any manner, except in accordance with proper judicial order or as otherwise provided by law, shall be guilty of a violation of this chapter.

(Code 1994, § 4.04.285; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-60. Examination of returns.

As soon as practicable after the return is filed, the director of finance shall examine it.

(Code 1994, § 4.04.290; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Secs. 6-61--6-89. Reserved.

Division 2. Sales Tax

Sec. 6-90. Sales tax levied.

There is levied and there shall be collected and paid a sales tax in the amount stated in section 6-112 as follows:

(1) On the purchase price paid or charged for tangible personal property leased, purchased or sold at retail by every person exercising a taxable privilege in the city by the sale or lease of such property, except those specifically exempted;

(2) On the total amount due under a lease or contract concerning tangible personal property when the right to possession or use of the tangible personal property is granted therein and such transfer of possession would be taxable under this chapter if an outright sale were made;

(3) On the purchase price paid or charged for television and entertainment services sold, purchased, leased, rented, furnished or used;

(4) Upon the amount paid for the use of facilities and accommodations of a hotel, apartment hotel, cottage camp, motor court, trailer park or camp operated for the accommodations of the general public;

(5) Upon telecommunications services, except carrier access services and interstate, private communication services, as designated in section 6-4, whether furnished by public or private corporations or enterprises for all interstate, intrastate and international telecommunications services originating from or received on telecommunications equipment in the city if the charge for the service is billed or charged to an apparatus, telephone or account in the city, to a customer location in the city, or to a person residing in the city, without regard to where the bill for such service is physically received;

(6) For gas and electric service or gas and electricity furnished and sold for domestic or commercial consumption and not for resale;

(7) Upon the amount paid for all meals, food and beverage and cover charges, if any, furnished in or from any restaurant, cafe, hotel, drugstore, nightclub, bar and lounge, tavern, club, resort, stand or vehicle, or other such place at which meals, food or beverage are regularly sold to the public for consumption either on or off the business premises;

(8) For steam or other heating service furnished and sold for domestic or commercial use.

(Code 1994, § 4.04.060; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-91. Imposition on full price.

The sales tax is imposed on the full purchase price of articles sold after manufacture or after having been made to order and includes the full purchase price of materials used and service performed in connection therewith,

excluding, however, such articles as are otherwise exempted.

(Code 1994, § 4.04.065; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-92. Incorrect registration of an automotive vehicle; penalty.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Notice of deficiency means the notice issued by the director of finance for a failure, neglect or refusal to pay any sales or use tax due or any penalties or interest thereon as provided in this chapter.

Penalty assessment means a written notice of the director of finance of his determination that a violation of C.R.S. § 42-3-101 et seq., as amended from time to time, has occurred and assessment and demand for the payment of the civil penalty provided for in subsection (c)(3) of this section.

(b) It is unlawful to register an automotive vehicle in violation of the provisions of C.R.S. § 42-3-101 et seq., as amended from time to time.

(c) Any person or business that causes an automotive vehicle to be registered in violation of the provisions of C.R.S. title 42, shall be assessed a $500.00 civil penalty pursuant to the authority granted in C.R.S. § 42-3-101 et seq., as amended from time to time. The procedure for the assessment of such civil penalty shall be as follows:

(1) When the director of finance determines on such information as is available that a person or business has caused an automotive vehicle to be registered in violation of the provisions of C.R.S. § 42-3-101 et seq., as amended from time to time, a penalty assessment shall be provided to said person or business. Service of the penalty assessment shall be sufficient if provided by certified mail, return receipt requested, to the person or business at its last-known address. If the director of finance has also determined that sales or use taxes are due to the city on the purchase of such automotive vehicle, as provided in this chapter, such penalty assessment may be included in a notice of deficiency.

(2) A person or business shall pay the penalty provided in this subsection (c) within 20 days from receipt of the penalty assessment or within such time designated in the notice of deficiency, unless such person or business files a written protest with the director of finance in the manner provided in subsection (c)(3) of this section.

(3) If a person or business desires to protest a penalty assessment, such person or business shall request in writing a hearing before the director of finance as provided in section 6-225. Such protest must be filed within 20 days from the date of receipt of the penalty assessment or notice of deficiency. The request for hearing shall set forth facts which show that a violation of C.R.S § 42-3-101 et seq., as amended from time to time, did not occur. The director of finance shall conduct a hearing and issue a final decision thereon as provided in section 6-225. If the decision affirms the penalty assessment, such person shall pay the civil penalty within 30 days from the date of said decision.

(4) A person or business may seek judicial review of the decision of the director of finance as provided for in sections 6-227 through 6-234. No such judicial review shall be available if a written request for hearing was not timely made in the manner provided for in subsection (c)(3) of this section.

(d) The director of finance may enforce collection of the penalty assessment in the same manner as provided in this chapter for the collection of unpaid sales or use taxes, penalties or interest.

(e) Nothing in this section shall preclude the collection of any tax or fee provided by law, the collection of any penalties or interest thereon provided by law, or the imposition of any other civil or criminal penalty provided by law.

(Code 1994, § 4.04.069; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 07, 2011, § 1, 2-1-2011; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-93. Application to vehicles; penalty.

The purchase of an automotive vehicle, trailer or semitrailer inside or outside of the city by a person or business that is a resident of the city for use in the city, shall be subject to tax under this chapter, which tax shall be payable at the time the registration license is issued by the county clerk and recorder. Any person or business that is a

resident of the city and that registers an automotive vehicle, trailer or semitrailer at an address outside the city is guilty of a violation of this chapter and shall be subject to the penalties and interests as provided for in this chapter. Failure to properly register a trailer or semitrailer shall result in the assessment of a $500.00 civil penalty in the same manner as provided for improperly registered automotive vehicles in section 6-92.

(Code 1994, § 4.04.070; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-94. Exemption for factory-built housing and mobile homes.

Forty-eight percent of the purchase price of factory-built housing and mobile homes shall be exempt from taxation under this chapter; except that the entire purchase price in any subsequent sale of a mobile home, after such mobile home has been subject to the payment of sales tax by virtue of section 6-90, shall be exempt from taxation under this chapter.

(Code 1994, § 4.04.071; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-95. Exemption to nonresidents; exception.

Sales of tangible personal property shall be exempted from taxation if both the following conditions exist:

(1) The sales are to those who are residents of or doing business in the state outside the city;

(2) The articles purchased are to be delivered to the purchaser outside the city by common carrier, by the conveyance of the seller or by mail.

(Code 1994, § 4.04.080; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-96. Exemption for motor fuels.

Sales of fuel used for the operation of internal combustion engines are exempt from taxation. All commodities which are taxed under the provisions of Colorado Motor Fuel Tax of 1933 shall be exempt from taxation under this chapter.

(Code 1994, § 4.04.085; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-97. Sales tax exemption for aircraft parts.

Sales of aircraft parts shall be exempt from city sales tax.

(Code 1994, § 4.04.086; Ord. No. 52, 2004, § 1, 10-19-2004; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-98. Exemption for manufacturing, processing, mining, construction or railroading.

Sales of tangible personal property shall be exempted from the operation of this chapter if all the following conditions exist:

(1) The sales are made to a purchaser engaged in manufacturing, processing, mining, construction or railroading;

(2) The articles sold are to be used by the purchaser in the conduct of his manufacturing, processing, mining, construction or railroading business outside the city; or

(3) Delivery of the articles sold is to be made to the purchaser at a point outside the city or to a carrier for delivery of the articles to a purchaser at a point outside the city or the railroad, in case the railroad is the purchaser, or to a truck of the construction company in case of a sale to a construction company.

(Code 1994, § 4.04.090; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-99. Exemption for medicine, prostheses and other devices.

The following shall be exempt from taxation under this chapter:

(1) The sale or purchase of prescription drugs for humans dispensed in accordance with a prescription by a legally qualified member of the healing arts.

a. The sale or purchase of prescription drugs for humans is exempt from the sales and use tax when the transaction occurs at the end sale from the pharmacist to the purchaser when dispensed in accordance with a prescription or when purchased by a legally qualified member of the healing arts

for use as part of a patient's treatment.

b. Prescription drugs for humans shall not include marijuana dispensed following a doctor's written order or recommendation.

(2) The administration of prescription drugs for humans as part of a patient's treatment is exempt from the sales and use tax, including when the drug is purchased from a pharmacist by a legally qualified member of the healing arts for use as a part of a patient's treatment.

(3) The sale or purchase of prescription drugs for animals dispensed in accordance with a prescription by a legally qualified member of the healing arts.

(4) Sales of prosthetic devices for humans are exempt from the imposition of sales and use tax under the following conditions:

a. When said device:

1. Aids or replaces a bodily function;

2. Is designed, manufactured, altered or adjusted to fit a particular individual; and

3. Is prescribed by a state-licensed practitioner of the healing arts.

b. Standardized or stock devices or appliances, whether or not mass produced, are not prosthetic devices unless they are prescribed by a state-licensed practitioner of the healing arts.

(5) Sales of therapeutic devices are exempt from the imposition of sales and use tax under the following conditions:

a. When said device:

1. Has a retail value of more than $100.00;

2. Is sold in accordance with a written recommendation from a state licensed practitioner of the healing arts.

(6) The sale or purchase of any item used once and then disposed of by a doctor, dentist or veterinarian in the treatment or diagnosis of a patient.

(7) The list of exempted drugs and prosthetic devices cannot be increased by implication or similarity. If there is any doubt as to the taxability on the sale or purchase of any particular item, the taxpayer should inquire as to the exempt status of such item. In all cases, the burden of proof is upon the taxpayer to establish that a sale or purchase is tax exempt.

(Code 1994, § 4.04.095; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 49, 2009, § 1, 10-20-2009; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-100. Exemption for governmental sales.

Sales to the United States Government, to the state and its departments or institutions and the political subdivisions thereof, in their governmental capacities only, and all sales to the city and any department thereof, are exempt from taxation.

(Code 1994, § 4.04.100; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-101. Exemption for charitable organizations.

Sales to charitable organizations shall be exempt from taxation.

(Code 1994, § 4.04.105; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-102. Exemption for occasional sales of charitable organizations.

Charitable organizations, as defined in section 6-4, which hold an Internal Revenue Service 501(c)(3) qualification letter and have a state exemption certificate, shall be exempt from collecting and remitting city taxes on sales made if total sales made during the calendar year are less than $25,000.00, and sales are conducted by the charitable organization a total of 12 days or less each calendar year.

(Code 1994, § 4.04.106; Ord. No. 36, 1996, 7-2-1996)

Sec. 6-103. Exemption for unlawful tax.

Sales which the city is prohibited from taxing under the Constitution or laws of the United States or the state shall be exempt under this chapter.

(Code 1994, § 4.04.110; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-104. Exemption for certain livestock and farm closeout sales.

Sales and purchase of meat cattle, sheep, lambs, swine and goats, all sales and purchases of mares and stallions for breeding purposes and all farm closeout sales shall be exempt from taxation under this chapter.

(Code 1994, § 4.04.115; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-105. Exemption for agricultural producers.

Sales and purchases by agricultural producers of feed or for commercial feeding of livestock or poultry, and all sales and purchases of commercial seeds, shall be exempt from taxation under this chapter.

(Code 1994, § 4.04.120; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-106. Exemption for cigarettes.

Sales of all cigarettes shall be exempt from taxation under this chapter.

(Code 1994, § 4.04.125; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-107. Exemption for newspapers and periodicals.

Sales of newspapers and periodical magazines shall be exempt from taxation under this chapter.

(Code 1994, § 4.04.130; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-108. Exemption for public utilities.

Sales of tangible personal property to a public utility doing business both within and without the city, for use in its business operations outside the city, even though delivery thereof is made within the city, shall be exempt from taxation under this chapter.

(Code 1994, § 4.04.135; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-109. Exemption for farm equipment.

All sales of farm equipment for use on property outside the city limits shall be exempt from taxation under this chapter; provided, however, that this exemption as to farm equipment shall not apply in the case of repairs performed or parts installed on farm equipment within the limits of the city.

(Code 1994, § 4.04.140; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-110. Exemption for construction materials.

The city's sales tax shall not apply to the sale of construction materials, if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the city evidencing that a local use tax has been paid or is required to be paid.

(Code 1994, § 4.04.141; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 6, 2016 § 1(exh. A), 3-1-2016; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-111. Credit for sales taxes paid to another municipality.

The city's sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subject to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of the amount of the city's sales tax as designated in section 6-112. A credit shall be granted against the city's sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule municipality. The amount of the credit shall not exceed the amount of the city's sales tax as designated in

section 6-112.

(Code 1994, § 4.04.142; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 53, 2004, § 2, 9-21-2004; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-112. Amount designated.

There is imposed, upon sales of commodities and services specified in section 6-90, a sales tax equal to 4.11 percent of taxable sales, calculated in accordance with regulations to be promulgated by the director of finance pursuant to section 6-30, provided that, while it remains in effect, the sales tax on food shall be imposed at the rate of 3.46 percent.

(Code 1994, § 4.04.145; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 50, 2002, § 3, 9-3-2002; Ord. No. 46, 2004, § 3, 8-17-2004; Ord. No. 17, 2015 § 3, 11-3-2015)

Sec. 6-113. Tax added to price or charges; nonresident; tax collection.

Retailers and vendors shall add the tax imposed, or the average equivalent thereof, to the sale price or charge, showing such tax as a separate and distinct item, and when added, such tax shall constitute a part of such price or charge and shall be a debt from the consumer or user to the retailer until paid and shall be recoverable by law in the same manner as other debts. Nonresident retailers and vendors engaged in business in the city shall collect and remit the sales tax as prescribed in this section, but the nonresident retailer or vendor may petition the director of finance to allow filing returns and paying taxes on a regularly audited and reasonably estimated payment basis on the grounds that the payment of the tax on individual sales will impose an undue hardship and that the type, occasion and infrequency of sales warrants such exception. Estimated payments of the tax shall be based upon the proportion that the retailer's or vendor's gross sales taxable under this section bear to the retailer's or vendor's total gross sales.

(Code 1994, § 4.04.150; Ord. No. 58, 1991 § 2(part), exh. B, 12-17-1991)

Sec. 6-114. Credit sales.

In case of a sale upon credit, a contract for sale (wherein is, provided that the price shall be paid in installments and title does not pass until a future date), chattel mortgage or conditional sale, there shall be paid upon each payment upon the account of purchase price, that proportion of the total tax which the amount paid bears to the total purchase price. The director of finance may authorize a retailer doing business wholly or partly on a credit basis to make returns on the basis of cash actually received. Thereafter, the retailer shall make returns and pay taxes on that basis until further order of the director of finance.

(Code 1994, § 4.04.155; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-115. Claims of absorption or refund unlawful; violation.

It is unlawful for any retailer to advertise, hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this chapter will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or, if added, that it or any part thereof will be refunded. Any person violating any provision of this section shall be subject to the penalties provided in this chapter.

(Code 1994, § 4.04.160; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-116. Schedule of payments.

(a) Every vendor and retailer shall be liable and responsible for the payment of an amount equal to the percentage rate of the city's sales tax as designated in section 6-112 applied with respect to all sales made by him of tangible personal property, commodities or services specified in section 6-90.

(b) Such payments by the retailer and vendor shall be made monthly and shall accompany sales tax returns, which shall be delivered to the director of finance during the first 20 days of each month. If the date on which the payments shall be due falls on a weekend or holiday, such payments shall be due on the next working day following the weekend or the holiday. Each monthly return and payment shall cover the sales during the preceding month.

(c) The retailer's and vendor's responsibility for making payments to the director of finance and filing returns, as set forth in this section, shall not be reduced or otherwise affected by reason of the fact that the amounts charged and received by the retailer and vendor from the consumer or user, in accordance with sections 6-112 and

6-113, differ from the amounts required to be paid by this section.

(Code 1994, § 4.04.165; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 53, 2004, § 2, 9-21-2004)

Sec. 6-117. Retention of records.

(a) It shall be the duty of every person liable to the city for any tax to keep and preserve records as required by title 8 of this Code.

(b) In the case of a person who does not keep the required books, accounts and records within the city, it shall be sufficient if such person produces within the city such books, accounts and records or such information as shall be reasonably required by the director of finance for examination by the director of finance. In lieu thereof, said person shall pay in advance such travel, lodging, meal and related expenses as shall reasonably be incurred by the director of finance in examination of said books, accounts and records at such place where said books, accounts and records are kept.

(Code 1994, § 4.04.168; Ord. No. 36, 2017 § 2(exh. B), 10-17-2017)

Secs. 6-122--6-140. Reserved.

Division 3. Use Tax

Sec. 6-141. Storage, consumption and use tax imposed.

There is imposed and shall be collected from every person in the city a tax or excise for the privilege of storing, using or consuming in the city any tangible personal property purchased at retail from sources outside of the city, at the rate of 4.11 percent of such storage or acquisition charges or costs, calculated in accordance with regulations to be promulgated by the director of finance pursuant to section 6-30. Such tax shall be payable to and it shall be collected by the director of finance.

(Code 1994, § 4.04.190; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 50, 2002, § 3, 9-3-2002; Ord. No. 46, 2004, § 3, 8-17-2004; Ord. No. 17, 2015 § 3, 11-3-2015)

Sec. 6-142. Use tax supplemental to sales tax.

The tax or excise on the storage, consumption and use of tangible personal property is declared to be supplementary to the city tax on retail sales as provided in this chapter.

(Code 1994, § 4.04.195; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-143. Levied.

There is levied and shall be collected and paid a tax in the amount stated in section 6-141 as follows:

(1) Upon the purchase price of items of tangible personal property, including tools, equipment and machines.

(2) Upon the purchase price of proprietary drugs purchased by hospitals, clinics, dentists, veterinarians, physicians and surgeons and other licensed practitioners of the healing arts for use in their professional services. Prescription drugs for humans and prescription drugs for animals as those terms are defined in section 6-4, purchased by physicians, surgeons, hospitals, clinics, dentists and veterinarians for use in their professional services are exempt from the use tax.

(3) Upon the purchase price of any equipment, instruments, furniture, fixtures of a capital outlay nature purchased in the usual course of business or practice of physicians, surgeons, dentists, veterinarians and other licensed practitioners of the healing arts, and hospitals, clinics and the like.

(Code 1994, § 4.04.196; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-144. Exemption for sales-taxed items.

The tax or excise on the storage, consumption and use of tangible personal property shall not apply to the storage, use or consumption of any tangible personal property, the sale of which is subject to the city retail sales tax as provided in this chapter.

(Code 1994, § 4.04.200; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-145. Exemption for resale items.

The tax or excise on the storage, consumption and use of tangible personal property shall not apply to the storage, use or consumption of any tangible personal property purchased for resale in the city, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business.

(Code 1994, § 4.04.205; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-146. Exemption for state-taxed motor fuel.

The tax or excise on the storage, consumption and use of tangible personal property shall not apply to the storage, use or consumption of motor fuel upon which there has accrued or has been paid the motor fuel tax prescribed by C.R.S. § 39-27-101 et seq., as amended from time to time.

(Code 1994, § 4.04.210; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 6-147. Exemption for nonresidents.

The tax or excise on the storage, consumption and use of tangible personal property shall not apply to the storage, use or consumption of tangible personal property brought into the state by a nonresident thereof for his own storage, use or consumption while temporarily within the state.

(Code 1994, § 4.04.215; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-148. Exemption for governments.

The tax or excise on the storage, consumption and use of tangible personal property shall not apply to the storage, use or consumption of tangible personal property of the United States government or the state, or its institutions or its political subdivisions in their governmental capacities only or by religious or charitable corporations in the conduct of their regular religious or charitable functions.

(Code 1994, § 4.04.220; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-149. Use tax exemption for aircraft parts.

Sales of aircraft parts shall be exempt from city use tax.

(Code 1994, § 4.04.221; Ord. No. 52, 2004, § 1, 10-19-2004; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-150. Exemption for manufacturing and compounding materials, and for commercial packaging materials.

The tax or excise on the storage, consumption and use of tangible personal property shall not apply to the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit or use any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the commercial packaging materials thereof.

(Code 1994, § 4.04.225; Ord. No. 58, 1991, § 2 (part), exh. B, 12-17-1991; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-151. Exemption for energy sources.

The tax or excise on the storage, consumption and use of tangible personal property shall not apply to the storage, use or consumption of electricity, coal, coke, fuel oil or gas for use in processing, manufacturing, mining, refining, irrigation, telegraph, telephone and radio communication, street and railroad transportation services and all industrial uses; except that electricity, gas, coal, fuel oil or coke used for lighting or space heating in these operations shall not be exempt.

(Code 1994, § 4.04.230; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-152. Exemption for certain livestock.

The tax or excise on the storage, consumption and use of tangible personal property shall not apply to the storage and use of meat cattle, sheep, lambs, swine and goats within this city, or to the storage and use within this city of mares and stallions kept, held and used for breeding purposes only.

(Code 1994, § 4.04.235; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-153. Exemption for certain carrier, public utility or construction purchases.

The tax or excise on the storage, consumption and use of tangible personal property shall not apply to tangible personal property purchased from a nonresident vendor by a resident common carrier, resident public utility or resident construction company, which tangible personal property is stored in the city but not used or consumed in the city.

(Code 1994, § 4.04.240; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-154. Exemption for storage of construction and building materials.

For transactions consummated on or after January 1, 1986, the city's use tax shall not apply to the storage of construction and building materials.

(Code 1994, § 4.04.241; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-155. Credit for use taxes paid to another municipality.

For transactions consummated on or after January 1, 1986, the city's use tax shall not apply to the storage, use or consumption of any article of tangible personal property the sale or use of which has already been subjected to a sales or use tax of another statutory or home rule municipality legally imposed on the purchaser or user equal to or in excess of the amount of the city's use tax as designated in section 6-141. A credit shall be granted against the city's use tax with respect to the person's storage, use or consumption in the city of tangible personal property, the amount of the credit to equal tax paid by him by reason of the imposition of a sales or use tax of the previous statutory or home rule municipality on his purchase or use of the property. The amount of the credit shall not exceed the amount of the city's use tax as designated in section 6-141.

(Code 1994, § 4.04.242; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 53, 2004, § 2, 9-21-2004)

Sec. 6-156. Nonapplicability more than three years after.

For transactions consummated on or after January 1, 1986, the city's use tax shall not be imposed with respect to the use or consumption of tangible personal property within the city which occurs more than three years after the most recent sale of the property if, within the three years following such sale, the property has been significantly used within the state for the principal purpose for which it was purchased.

(Code 1994, § 4.04.243; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-157. Exemption; burden of proof.

The burden of proving that any vendor, retailer, consumer or purchaser is exempt from collecting or paying the tax upon goods sold or purchased, paying the same to the director of finance or making such returns shall be on the vendor, retailer, consumer or purchaser under such reasonable requirements of proof as the director of finance may prescribe.

(Code 1994, § 4.04.244; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-158. Payment and collection provisions designated.

The provisions of sections 6-159 through 6-162 shall apply to the payment and collection of the tax on storage, consumption and use of tangible personal property.

(Code 1994, § 4.04.245; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-159. Payment on vehicles; restrictions.

Any person who purchases any motor vehicle, mobile home, trailer or semitrailer, whether new or used, outside the corporate limits of the city for use within the city, shall immediately and prior to registering and obtaining a license therefor, make a return showing such transaction to the director of finance and thereupon pay to him the use tax applicable thereto as provided for in section 6-141; failure so to do shall constitute a violation of this chapter. All such motor vehicles, mobile homes, trailers or semitrailers purchased outside the corporate limits of the city for use in the city shall be registered with the county clerk and recorder. Any person who registers any such motor vehicle, mobile home, trailer or semitrailer in any other county in the state or elsewhere shall be deemed in violation of this chapter and any such registration shall constitute prima facie evidence of an attempt to evade

payment of such tax.

(Code 1994, § 4.04.250; Ord. No. 58, 1991 § 2(part), exh. B, 12-17-1991)

Sec. 6-160. Payments and exemption for construction materials.

(a) Any person who builds, constructs or improves any building, dwelling or other structure or makes any improvement to realty whatsoever within the city and who purchases or acquires construction materials used therefor or any tangible personal property used therein from any source inside or outside the corporate limits of the city shall, at the time a building permit is issued, pay a use tax deposit to the director of finance in an amount calculated as follows: 45 percent of the estimated value of new residential construction if said estimated value is $75,000.00 per unit or less, multiplied by the percentage rate of the city's use tax as designated in section 6-141; and for all other construction for which a building permit is to be issued, the amount collected shall be 50 percent of the estimated value of construction, multiplied by the percentage rate of the city's use tax as designated in section 6-141. The estimated valuation of such construction shall be determined by the community development department of the city.

(b) The use tax deposit represents an estimate of use taxes due, and it shall be the duty of the purchaser to file a project cost report with the director of finance on forms to be provided by the director of finance within 45 days after the issuance of the certificate of occupancy. The project cost report shall set forth the actual amounts of any purchases of construction materials, supplies, and tangible personal property used therein to determine the actual use tax due. If the actual use tax due is less than the deposit paid, the difference shall be refunded to the purchaser. If the use tax due is greater than the deposit paid, the purchaser shall be notified of the deficiency and shall remit any tax due immediately to the director of finance. The director of finance may set a minimum amount of purchases on which the project cost report is required.

(c) This section shall not apply with respect to any construction materials which were subjected to any state municipality's sales tax at the time those items were sold to the person who otherwise would be subject to the requirements of this section. However, no person may take advantage of the exemption provided by this section unless such person presents to the director of finance or to the director of the department of community development invoices or other statements showing in detail that such items were in fact subject to the sales tax of a state municipality.

(Code 1994, § 4.04.255; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 53, 2004, § 2, 9-21-2004; Ord. No. 6, 2016 § 1(exh. A), 3-1-2016; Ord. No. 35, 2017 § 2(exh. C), 10-17-2017)

Sec. 6-161. Purchases outside city limits.

Every person who shall become subject to the payment of an excise tax for the privilege of storing, using or consuming within the city any articles of tangible personal property purchased at retail from sources outside the corporate limits of the city shall, unless a different time is otherwise specifically provided in this chapter, promptly file a return with the director of finance and pay to him the full amount of the tax due thereon and any undue delay or effort to evade the payment of such tax shall subject such person to such penalties and punishment as are provided in this chapter.

(Code 1994, § 4.04.260; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-162. Proration for certain construction equipment.

(a) Construction equipment which is located within the boundaries of the city for a period of more than 30 consecutive days shall be subjected to the generally applicable use tax provisions of section 6-141.

(b) With respect to transactions consummated on or after January 1, 1986, construction equipment which is located within the boundaries of the city for a period of 30 consecutive days or less shall be subjected to the city's use tax in an amount calculated as follows: the purchase price of the equipment shall be multiplied by a fraction, the numerator of which is one and the denominator of which is 12, and the result shall be multiplied by the percentage rate of the city's use tax as designated in section 6-141.

(c) Where the provisions of subsection (b) of this section are utilized, the credit provisions of section 6-155 shall apply at such time as the aggregate sales and use taxes legally imposed by and paid to other statutory and home rule municipalities on any such equipment equal the amount of the city's use tax as designated in section 6-

141.

(d) In order to avail himself of the provisions of subsection (b) of this section, the taxpayer shall comply with the following procedure:

(1) Prior to or on the date the equipment is located within the boundaries of the city, the taxpayer shall file with the director of finance an equipment declaration on a form provided by the city. Such declaration shall state the dates on which the taxpayer anticipates the equipment will be located within and removed from the boundaries of the city, shall include a description of each such anticipated piece of equipment, shall state the actual or anticipated purchase price of each such anticipated piece of equipment, and shall include such other information as reasonably deemed necessary by the city.

(2) The taxpayer shall file with the city an amended equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every 90 days after the equipment is brought into the boundaries of the city or, for equipment which is brought into the boundaries of the city for a project of less than 90 days' duration, no later than ten days after substantial completion of the project.

(3) The taxpayer need not report on any equipment declaration any equipment for which the purchase price was under $2,500.00.

(e) If the equipment declaration is given as provided in subsection (d) of this section, then as to any item of construction equipment for which the customary purchase price is under $2,500.00 which was brought into the boundaries of the city temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales or use tax as high as the sales or use tax imposed by the city and that such other jurisdiction's local sales or use tax was previously paid. In such case, the burden of proof in any proceeding before the city, the executive director of the department of revenue, or the district court, shall be on the city to prove that such local sales or use tax was not paid.

(f) If the taxpayer fails to comply with the provisions of subsection (d) of this section, the taxpayer may not avail himself of the provisions of subsection (b) of this section and shall be subject to the provisions of subsection (a) of this section. However, substantial compliance with the provisions of subsection (d) of this section shall allow the taxpayer to avail himself of the provisions of subsection (b) of this section.

(Code 1994, § 4.04.261; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 53, 2004, § 2, 9-21-2004)

Secs. 6-169--6-189. Reserved.

ARTICLE IV. COLLECTION AND ENFORCEMENT

Sec. 6-190. Refunds or credits for excess payments.

If the amount paid in a return examined according to section 6-60 exceeds that which is due, the excess shall be refunded or credited against any subsequent remittance from the same person.

(Code 1994, § 4.04.300; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-191. Interest on tax.

(a) If any amount of sales or use tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate imposed under section 6-197 shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment and shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy, prior to the last date otherwise prescribed for such payment. In the case of a tax in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for the tax arises and in no event shall it be later than the date notice and demand for the tax is made by the director of finance.

(b) Interest prescribed under sections 6-191 through 6-196 shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as the tax to which it is applicable.

(c) If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this section on the portion of the tax so satisfied for any period during which, if the credit had not been made,

interest would have been allowed with respect to such overpayment.

(d) Interest prescribed under sections 6-191 through 6-196 on any sales or use tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be assessed and collected.

(Code 1994, § 4.04.305; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-192. Deficiency due to negligence.

If any part of a deficiency in payment of the sales or use tax is due to negligence or intentional disregard of the ordinances or of authorized rules and regulations of the city with knowledge thereof, but without intent to defraud, there shall be added ten percent of the total amount of the deficiency, and in such case interest shall be collected at the rate imposed under section 6-197, in addition to the interest provided by section 6-191, on the amount of such deficiency from the time the return was due, from the person required to file the return, which interest and addition shall become due and payable 20 days after written notice and demand to him by the director of finance.

(Code 1994, § 4.04.310; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-193. Deficiencies from fraud; penalty.

If any part of a deficiency is due to fraud with the intent to evade the tax, then there shall be added 100 percent of the total amount of the deficiency and in such case the whole amount of the tax unpaid, including the additions, shall become due and payable 20 days after written notice and demand by the director of finance, and an additional three percent per month on said amount shall be added from the date the return was due until paid.

(Code 1994, § 4.04.315; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-194. Sales tax; neglect or refusal to make return or to pay.

If a person neglects or refuses to make a return in payment of the sales tax or to pay any sales tax, as required, the director of finance shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to the sum of $15.00 for such failure or ten percent thereof and interest on such delinquent taxes at the rate imposed under section 6-197 plus 1/2 percent per month from the date when due, not exceeding 18 percent in the aggregate.

(Code 1994, § 4.04.316; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-195. Use tax; neglect or refusal to make return or to pay.

If a person neglects or refuses to make a return in payment of the use tax or to pay any use tax as required, the director of finance shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to ten percent thereof and interest on such delinquent taxes at the rate imposed under section 6-197, plus 1/2 percent per month from the date when due.

(Code 1994, § 4.04.317; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-196. Penalty interest on unpaid use tax.

Any use tax due and unpaid shall be a debt to the city, and shall draw interest at the rate imposed under section 6-197, in addition to the interest provided by section 6-191, from the time when due until paid.

(Code 1994, § 4.04.318; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-197. Rate of interest.

When interest is required or permitted to be charged under any provisions of sections 6-191 through 6-196, the annual rate of interest shall be that established by the state commissioner of banking pursuant to C.R.S. § 39-21-110.5.

(Code 1994, § 4.04.319; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-198. Other remedies.

Nothing in sections 6-191 through 6-197 shall preclude the city from utilizing any other applicable penalties or remedies for the collection or enforcement of sales or use taxes.

(Code 1994, § 4.04.320; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-199. Investigations and hearings; powers of director of finance.

For the purpose of ascertaining the correctness of a tax return or for the purpose of determining the amount of tax due from any person, the director of finance may hold investigations and hearings concerning any matters covered by this chapter, may examine any relevant books, papers, records or memoranda of any such person, may require the attendance of such person or any officer or employee of such person, or of any person having knowledge of such sales, and may take testimony and require proof for his information. The director of finance may also engage a hearing officer to perform these duties. The director of finance and the hearing officer shall have power to administer oaths.

(Code 1994, § 4.04.321; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 36, 2017 § 1(exh. A), 10-17-2017; Ord. No. 10, 2018 , § 1(exh. A), 3-6-2018)

Sec. 6-200. Location of hearings.

Every hearing before the director of finance shall be held in the city.

(Code 1994, § 4.04.325; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-201. Subpoenas; witnesses; fees.

All subpoenas issued under the terms of this chapter may be served by any person of full age. The fees of witnesses for attendance at trial shall be the same as the fees to be paid when the witness is excused from further attendance; when the witness is subpoenaed at the instance of the director of finance, such fees shall be paid in the same manner as other expenses under the terms of this chapter; and when a witness is subpoenaed at the instance of any party to any such proceedings, the director of finance may require the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the director of finance, in his discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as subpoenas issued out of a court of record.

(Code 1994, § 4.04.330; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-202. Authority of district judge.

Any judge of the District Court of the Nineteenth Judicial District of the State, either in term time or vacation, upon application of the director of finance, may compel the attendance of witnesses, the production of books, papers, records or memoranda, and the giving of testimony before the director of finance or any of his duly authorized deputies, by an attachment for contempt or otherwise, in the same manner as production of evidence may be compelled before the court.

(Code 1994, § 4.04.335; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-203. Deposition parties.

The director of finance or any party in an investigation or hearing before the director of finance may cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in courts of this state, and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.

(Code 1994, § 4.04.340; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-204. Disputed taxes; collection; refund.

Should a dispute arise between a purchaser and seller as to whether or not any sale or commodity or service is exempt from taxation under this chapter, the seller shall nevertheless collect and the purchaser shall pay such tax, and the seller shall thereupon issue the purchaser a receipt or certificate, on forms prescribed by the director of finance, showing the names of the seller and purchaser, the items purchased, the date, price, amount of tax paid and

a brief statement of the claim of exemption. The purchaser thereafter may apply to the director of finance for a refund of such taxes and it shall be the duty of the director of finance to determine the question of exemption, subject to review by the courts, as provided in this chapter.

(Code 1994, § 4.04.345; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-205. Refund to purchaser; conditions designated.

A refund shall be made or credit allowed for the tax paid under dispute by any purchaser according to the provisions of section 6-204 who has an exemption as set out in this chapter. Such refund shall be made by the director of finance after compliance with the conditions precedent of sections 6-206, 6-207 and 6-208.

(Code 1994, § 4.04.350; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-206. Application for refunds.

(a) An application for a refund of sales or use taxes must be supported by the affidavit of the purchaser accompanied by the original paid invoices or sales receipt and a certificate issued by the seller, and be made upon such forms as shall be prescribed and furnished by the director of finance, which forms shall contain such information as the director of finance prescribes.

(b) An application for refund of sales or use tax paid under dispute by a purchaser or user who claims an exemption pursuant to this chapter shall be made within 60 days after the purchase, storage, use or consumption of the goods or services whereon an exemption is claimed.

(c) An application for refund of tax monies paid in error or by mistake shall be made within three years after the date of purchase, storage, use or consumption of the goods for which the refund is claimed.

(Code 1994, § 4.04.355; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-207. Examination of application and decision.

Upon receipt of the application provided for at section 6-206, the director of finance shall examine the same with all due speed and shall give notice to the applicant, by an order in writing, of his decision thereon.

(Code 1994, § 4.04.360; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-208. Right of aggrieved to hearing.

An aggrieved applicant for a refund may, within 20 days after such decision is mailed to him, petition the director of finance for a hearing on the claim in the manner provided in this chapter.

(Code 1994, § 4.04.365; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-209. Burden of proof.

The burden of proof that sales, commodities and services on which tax refunds are claimed are exempt from taxation under this chapter or were not at retail shall be on the one making such claim under such reasonable requirements of proof as the director of finance may prescribe.

(Code 1994, § 4.04.370; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-210. Right not assignable.

The right of any person to a refund under this chapter shall not be assignable and application for refund must be made by the person who purchased the goods and paid the tax thereon as shown in the invoices of the sale thereof.

(Code 1994, § 4.04.375; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-211. False statements unlawful.

Any applicant for refund under the provisions of this chapter or any other person who makes any false statement in connection with an application for a refund of any tax shall be deemed guilty of a violation of this chapter and punished as provided for at sections 6-244, 6-245 and 6-246.

(Code 1994, § 4.04.380; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-212. Effect of conviction for false statements.

If any person is convicted under the provisions of section 6-211, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully and the director of finance is empowered and directed to bring appropriate action for recovery of such refund. A brief summary of the penalties provided for at section 6-211 shall be printed on each form application for a refund.

(Code 1994, § 4.04.385; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-213. Liens; priority and scope.

The tax imposed by this chapter shall be a first and prior lien upon the goods and business fixtures of or used by any retailer under lease, title retaining contract or other contract arrangement, excepting stocks of goods sold or for sale in the ordinary course of business, and shall take precedence on all such property over other liens or claims of whatsoever kind or nature.

(Code 1994, § 4.04.390; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-214. Notice issued.

If any taxes, penalty or interest imposed by this chapter shown due by returns filed by the taxpayer or as shown by assessments duly made as provided in this chapter, are not paid within five days after the same are due, the director of finance shall issues a notice setting forth the name of the taxpayer; the amount of the tax, penalties and interest; the date of the accrual thereof; and that the city claims a first and prior lien therefor on the real and tangible personal property of the taxpayer except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached prior to the filing of the notice as provided at section 6-215 on property of the taxpayer other than the goods, stock in trade and business fixtures of such taxpayer.

(Code 1994, § 4.04.395; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-215. Notice form, filing.

Such notice as provided for at section 6-214 shall be on forms prepared by the director of finance and shall be verified by him, or his duly qualified deputy or any duly qualified agent of the director of finance whose duties are the collection of such tax, and may be filed in the office of the clerk and recorder of any county in the state in which the taxpayer owns real or tangible personal property; the filing of such notice shall create such lien on such property in that county and constitute a notice thereof.

(Code 1994, § 4.04.400; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-216. Warrant for seizures and sale of property.

After the notice provided for at section 6-214 has been filed, concurrently therewith, or at any time when taxes due are unpaid, whether such notice be filed or not, the director of finance may issues a warrant under his official seal directed to any duly authorized revenue collector or the sheriff of any county in the state, commanding him to levy upon, seize and sell sufficient of the real and personal property of the tax debtor found within his county for the payment of the amount due, together with interest, penalties and costs, as now or hereafter provided by ordinance, subject to valid preexisting claims or liens as provided at section 6-214.

(Code 1994, § 4.04.405; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-217. Levy and sale; sheriff's fees.

Such revenue collector or the sheriff, as mentioned at section 6-216, shall forthwith levy upon sufficient of the property of the taxpayer or any property used by such taxpayer in conducting his retail business, and the property so levied upon shall be sold in all respects, with like effect and in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishments shall apply. The sheriff shall be entitled to such fees in executing such warrant as are allowed by law for similar services.

(Code 1994, § 4.04.410; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-218. Release of lien.

Any lien for taxes as shown on the records of a county clerk and recorder as provided in this chapter shall,

upon the payment of all taxes, penalties and interest covered thereby, be released by the director of finance in the same manner as mortgages or judgments are released.

(Code 1994, § 4.04.415; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-219. Actions affecting property.

In any action affecting the title to real estate or the ownership or rights to possession of personal property, the city may be made a party defendant for the purpose of obtaining a judgment or determination of its lien upon the property involved therein.

(Code 1994, § 4.04.420; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-220. Unpaid taxes; treated as debt.

The director of finance may also treat any taxes, penalties or interest due and unpaid as a debt due the city from the vendor or retailer.

(Code 1994, § 4.04.425; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-221. Recovery at law.

In case of failure to pay the taxes or any portion thereof, or any penalty or interest thereon when due, the director of finance may recover at law the amount of such taxes, penalties and interest in any county or district court of the county wherein the taxpayer resides or has his principal place of business, which court has jurisdiction regarding the amounts sought to be collected.

(Code 1994, § 4.04.430; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 56, 1994, § 1, 12-20-1994)

Sec. 6-222. Proof of amount due.

The return of the taxpayer or the assessment made by the director of finance, as provided in this chapter, shall be prima facie proof of the amount due.

(Code 1994, § 4.04.435; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-223. Attachment; no bond required.

Such actions may be actions in attachments, and writs of attachment may be issued to the sheriff; and in any such proceeding no bond shall be required of the director of finance, nor shall any sheriff require of the director of finance an indemnifying bond for executing the writ of execution upon any judgment entered in such proceedings, and the director of finance may prosecute appeals or writs of error in such cases without the necessity of providing bond therefor.

(Code 1994, § 4.04.440; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-224. City attorney duty.

It shall be the duty of the city attorney, when requested by the director of finance, to commence action for the recovery of taxes due, and this remedy shall be in addition to all other existing remedies.

(Code 1994, § 4.04.445; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-225. Petition of aggrieved taxpayers.

If any person, having made a return and paid the tax, feels aggrieved by the assessment made upon him by the director of finance, he may apply to the director of finance by petition in writing, within 30 days after the notice is mailed to him, for a hearing and correcting of the amount of the tax so assessed, in which petition he shall set forth the reasons why such hearing should be granted and the amount by which such tax should be reduced. The director of finance shall notify the petitioner in writing of the time and place fixed by him for such hearing. The city shall hold such hearing and issues the final decision thereon within 180 days after the city's receipt of the taxpayer's written request therefor.

(Code 1994, § 4.04.450; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 36, 2017 § 1(exh. A), 10-17-2017)

Sec. 6-226. Notice of decision.

Every decision of the director of finance shall be in writing and notice thereof shall be mailed to the vendor within 20 days, and all such decisions shall become final upon the expiration of 30 days after notice of such decision has been mailed to the vendor unless proceedings are begun within that time for review thereof as provided at section 6-227.

(Code 1994, § 4.04.455; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

~~**Sec. 6-227. Reserved.**~~

~~**Editor's note**— Ord. No. 36, 2017 §1(exh. A), adopted Oct. 17, 2017, repealed § 4.04.465, which pertained to delegation of duties and derived from Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991.~~

Sec. 6-227. Appeals of decision.

All appeals of a decision of the director of finance shall be in accordance with the provisions of C.R.S. § 29-2-106.1 and the applicable rules of civil procedure.

(Code 1994, § 4.04.470; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-228. Coordinated audit.

(a) Any taxpayer licensed in this city pursuant to section 6-219 and holding a similar sales tax license in at least four other state municipalities that administer their own sales tax collection may request a coordinated audit as provided herein.

(b) Within 14 days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the city finance director, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such request shall include a list of those state municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage of time based limitation upon this city's right to recover tax owed by the vendor for the audit period.

(c) Except as provided in subsection (g) of this section, any taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of section 6-33 may be audited by the city during the 12 months after such request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

(d) If the city desires to participate in the audit of a coordinated audit pursuant to subsection (c) of this section, the finance director shall so notify the finance director of the municipality whose notice of audit prompted the taxpayer's request within ten days after receipt of the taxpayer's request for a coordinated audit. The finance director shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.

(e) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by the city, the finance director shall facilitate arrangements between the city and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The finance director shall cooperate with other participating municipalities to, whenever practicable, minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

(f) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by the city, the finance director shall, once arrangements for the coordinated audit between the city and other participating municipalities are completed, provide written notice to the taxpayer of which municipalities will be participating, the period to be audited and the records most likely to be required by participating municipalities for completion of the coordinated audit. The finance director shall also propose a schedule for the coordinated audit.

(g) The coordinated audit procedure set forth in this section shall not apply:

(1) When the proposed audit is a jeopardy audit;

(2) To audits for which a notice of audit was given prior to the effective date of the ordinance form which this section is derived;

(3) When a taxpayer refuses to promptly sign a waiver of section 6-33; or

(4) When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in subsection (b) of this section.

(Code 1994, § 4.04.475; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-229. Claims for recovery.

The intent of this section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect, and remit sales and use taxes to the city.

(1) As used herein, the term "claim for recovery" means a claim for reimbursement of sales and use taxes paid to the wrong taxing jurisdiction.

(2) When it is determined by the director of finance that sales and use tax owed to the city has been reported and paid to another municipality, the city shall promptly notify the vendor that taxes are being improperly collected and remitted, and that as of the date of the notice the vendor must cease improper tax collections and remittances.

(3) The city may make a written claim for recovery directly to the municipality that received tax and/or penalty and interest owed to the city, or, in the alternative, may institute procedures for collection of the tax from the taxpayer or vendor. The decision to make a claim for recovery lies in the sole discretion of the city. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or vendor releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the same and a request that the municipality approve or deny, in whole or in part, the claim within 90 days of its receipt. The municipality to which the city submits a claim for recovery may, for good cause, request an extension of time to investigate the claim and approval of such extension by the city shall not be unreasonably withheld.

(4) Within 90 days after receipt of a claim for recovery, the city shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for the decision. If the claim is approved in whole or in part, the city shall remit the undisputed amount to the municipality submitting the claim within 30 days of approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim for recovery may only be made for good cause.

(5) The city may deny a claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.

(6) The period subject to a claim for recovery shall be limited to the 36-month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery.

(Code 1994, § 4.04.476; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-230. Notices of assessment.

An appeal of a notice of assessment issued to a vendor or taxpayer for failure to file a return, underpayment of tax owed or as a result of an audit shall be submitted in writing to the finance director or other appropriate officer within 30 calendar days from the date of the notice of assessment. Any such appeal shall identify the amount of tax disputed and the basis for the appeal. The time period set forth in this section may, in the absolute discretion of the finance director, be waived for good cause on written application of a vendor or taxpayer.

(Code 1994, § 4.04.480; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 36, 2017 § 1(exh. A), 10-17-2017)

Sec. 6-231. Denial of refunds.

An appeal of a denial of a refund shall be submitted in writing to the finance director or other appropriate officer within 30 calendar days from the date of the denial of the refund and shall identify the amount of the refund requested and the basis for the appeal. The time period set forth in this section may, in the absolute discretion of the finance director, be waived for good cause on written application of a vendor or taxpayer.

(Code 1994, § 4.04.485; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 36, 2017 § 1(exh. A), 10-17-2017)

Sec. 6-232. Appeal of hearing decision.

An appeal of a decision of the finance director in a hearing held pursuant to section 6-225 shall be commenced within 30 days of such decision. The time period set forth in this section may, in the absolute discretion of the finance director, be waived for good cause on written application of a vendor or taxpayer.

(Code 1994, § 4.04.490; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-233. Notice of tax amendment.

(a) In order to initiate a central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the finance director shall file with the state municipal league prior to the effective date of the ordinance from which this section is derived a copy of the city sales and use tax ordinance reflecting all provisions in effect on the effective date of the ordinance from which this section is derived.

(b) In order to keep current the central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the finance director shall file with the state municipal league prior to the effective date of any amendment a copy of each sales and use tax ordinance amendment enacted by the city.

(c) Failure of the city to file such ordinance or ordinance amendment pursuant to the section shall not invalidate any provision of the sales and use tax ordinance or any amendment thereto.

(Code 1994, § 4.04.491; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-234. Simplification meetings.

The finance director or his designee shall cooperate with and participate on an as-needed basis with a permanent statewide sales and use tax committee convened by the state municipal league which is composed of state and municipal sales and use tax and business officials. Said committee will meet for the purpose of discussing and seeking resolution to sales and use tax problems which may arise.

(Code 1994, § 4.04.495; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-235. Failure to make return; penalty.

If any person neglects or refuses to make a return in payment of the taxes as required by this chapter, the director of finance shall make an estimate, based upon such information as may be available, of the amount of the taxes due for the periods for which the taxpayer is delinquent; and upon the basis of such estimated amount, shall compute and assess in addition thereto a penalty equal to ten percent thereof, together with interest on such delinquent taxes at the rate of one percent per month from the date when due.

(Code 1994, § 4.04.500; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-236. Notice of estimate.

Promptly after making the estimate and computations provided for at section 6-235, the director of finance shall give to the delinquent taxpayer written notice of such estimated taxes, penalty and interest, which notice must be served personally or by certified mail.

(Code 1994, § 4.04.505; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-237. Payment of assessment; petition for modification.

The estimate provided for at section 6-235 shall, upon the notice provided for at section 6-236, become an assessment and such assessment shall be final and due and payable from the taxpayer to the director of finance 30 days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within

that 30-day period, such delinquent taxpayer may petition the director of finance for a revision or modification of such assessment and shall, within such 30-day period, furnish the director of finance the facts and correct figures showing the correct amount of such taxes.

(Code 1994, § 4.04.510; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991; Ord. No. 36, 2017 § 1(exh. A), 10-17-2017)

Sec. 6-238. Requirements for petition.

Such petition as is provided for at section 6-237 shall be in writing and the facts and figures submitted shall be submitted either in writing or orally and shall be given under oath of the taxpayer.

(Code 1994, § 4.04.515; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-239. Final order of assessment.

Upon a petition as provided for at section 6-237, the director of finance shall modify such assessment in accordance with the facts submitted, which facts he deems correct. Such assessment shall be considered the final order of the director of finance and may be reviewed under Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that the taxpayer gives written notice to the director of finance of such intention within five days after receipt of the final order of assessment.

(Code 1994, § 4.04.520; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-240. Going out of business; duty of retailer and purchaser.

Any retailer who sells out his business or stock of goods or quits business shall be required to make out a return as provided in this chapter within ten days after the date he sold out his business or stock of goods or quit business, and his successor in business shall be required to withhold sufficient of the purchase money to cover the amount of the tax due and unpaid until such time as the former owner produces a receipt from the director of finance showing that the taxes have been paid or a certificate that no taxes are due.

(Code 1994, § 4.04.525; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-241. Liability of purchaser.

If the purchaser of a business or stock of goods fails to withhold the purchase money as provided at section 6-240 and the tax is due and unpaid after the ten-day period allowed, he, as well as the vendor, shall be personally liable for the payment of the taxes unpaid by the former owner. Likewise, anyone who takes any stock of goods or business fixtures of or used by any retailer under lease, title-retaining contract or other contract arrangement, by purchase, foreclosure sale or otherwise, takes the same subject to the lien for any delinquent sales taxes owed by such retailer and shall be liable for the payment of all delinquent sales taxes of such prior owner, not, however, exceeding the value of the property so taken or acquired.

(Code 1994, § 4.04.530; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-242. Bankruptcy; status of lien.

Whenever the business or property of any taxpayer subject to this chapter is placed in receivership, bankruptcy or assignment for the benefit of creditors or seized under distraint for property taxes, all taxes, penalties and interest imposed by this chapter and for which the retailer is in any way liable shall be a prior and preferred lien against all the property of the taxpayer, except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached prior to the filing of the notice as provided in this chapter on the property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer, and no sheriff, receiver, assignee or other officer shall sell the property of any person subject to this chapter under process or order of any court without first ascertaining from the director of finance the amount of any taxes due and payable, and if there are any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting claims or liens as provided in this section.

(Code 1994, § 4.04.535; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-243. Tax money held by retailer; failure to pay unlawful.

All sums of money paid by a purchaser to the retailer as taxes imposed shall be and remain public money, the property of the city, in the hands of such retailer, and he shall hold the same in trust for the sole use and benefit of the city until paid to the director of finance as provided in this chapter, and for failure so to pay to the director of finance such retailer shall be punished for a violation of this chapter.

(Code 1994, § 4.04.540; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-244. Violations; failure to make reports or pay taxes.

It is unlawful for any retailer or vendor to refuse to make any return required to be made in this chapter and chapter 2 of this title and chapter 4 of title 10 of this Code or to make any false or fraudulent return or false statement on any return or fail and refuse to make payment to the director of finance of any taxes collected or due the city, or in any manner evade the collection and payment of the tax or any part thereof, or for any person or purchaser to fail or refuse to pay such tax or evade the payment thereof, or to aid or abet another in any attempt to evade the payment of the tax.

(Code 1994, § 4.04.545; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-245. Penalty.

Any person who violates any of the provisions of this chapter and chapters 2 of this title and chapter 4 of title 10 of this Code is guilty of a violation of this chapter and shall be punished as provided in chapter 9 of title 1 of this Code.

(Code 1994, § 4.04.550; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-246. Each day a separate offense.

Each and every 24 hours' continuation of any violation shall constitute a distinct and separate offense.

(Code 1994, § 4.04.555; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Sec. 6-247. Tax collection boundaries.

The director of finance shall make available to any requesting vendor a map or location guide showing the boundaries of the city. For transactions consummated on or after January 1, 1986, the requesting vendor may rely on such map or location guide and any update thereof available to such vendor in determining whether to collect a sales or use tax or both. No penalty shall be imposed or action for deficiency maintained against such a vendor who in good faith complies with the most recent map or location guide available to it.

(Code 1994, § 4.04.560; Ord. No. 58, 1991, § 2(part) exh. B, 12-17-1991)

Secs. 6-248--6-274. Reserved.

CHAPTER 2. PUBLIC ACCOMMODATIONS TAX

Sec. 6-275. Legislative intent.

It is declared to be the legislative intent of the city that, for the purpose of this chapter, every person who purchases lodging in the city is exercising a taxable privilege.

(Code 1994, § 4.08.005; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-276. Short title.

This chapter shall be known as the "Greeley Lodger's Tax."

(Code 1994, § 4.08.010; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-277. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Gross taxable sales means the total amount received in money, credits, property or other valuable

consideration from sales and purchases of lodging, subject to the tax imposed in this chapter.

Lodging means the transaction of furnishing rooms or accommodations by any person, partnership, association, corporation, estate, receiver, trustee, assignee, lessee or any person acting in a representative capacity or any other combination of individuals of whatever name known to a person who, for a consideration, uses, possesses or has the right to use or possess any room in a hotel, apartment, hotel, lodginghouse, motor hotel, guest house, guest ranch, mobile home, auto camps, trailer courts and parks, under any concession, permit, right of access, license to use or other agreement, or otherwise.

Person means an individual, partnership, society, club, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise and any other group or combination of individuals acting as a unit, including the United States of America, the state and any political subdivision thereof.

Purchase or *sale* means the acquisition for a price by any person of the taxable services of lodging within the city.

Purchaser means any person to whom the taxable service of lodging has been rendered.

Tax means either the tax payable by the purchaser or the aggregate amount of taxes due from a vendor during the period for which the vendor is required to report collections under this chapter.

Taxpayer shall mean any person obligated to account to the finance director for taxes collected or to be collected under the terms of this chapter.

Vendor means a person making sales to a purchaser in the city of the taxable service of lodging.

(Code 1994, § 4.08.015; Ord. No. 56, 1994, § 1, 12-20-1994; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-278. Imposition of tax.

(a) There is levied a tax in the amount of three percent of the purchase price paid or charged for lodging within the city.

(b) In all cases, the purchase price paid or charged shall exclude the sale of any goods, services or commodities otherwise taxed under section 6-90, except that the lodging tax provided for in this chapter shall be in addition to the sales tax levied pursuant to section 6-90.

(Code 1994, § 4.08.020; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-279. Exemptions.

The following sales and purchases are exempt from the tax imposed by this chapter:

(1) All sales and purchases of commodities and services under the definition of the term "lodging" in section 6-277 to any occupant who is a resident of any hotel, apartment house, guest ranch, mobile home, auto camp, trailer court or park and who enters into or has entered into a written agreement for occupancy of a room or rooms or accommodations for a period of at least 30 consecutive days;

(2) All sales to the United States government, to the state, its departments or institutions and the political subdivisions thereof, in their governmental capacities only; and all sales to the city and any department thereof;

(3) All sales to religious, charitable, and eleemosynary corporations, in the conduct of their regular religious, charitable and eleemosynary functions and activities.

(Code 1994, § 4.08.025; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-280. Collection of tax.

(a) Every vendor making sales to a purchaser in the city, which sales are taxable under the provisions of this chapter, at the time of making such sales, is required to collect the tax imposed by section 6-278(a) from the purchaser.

(b) The tax to be collected as provided by subsection (a) of this section shall be stated and charged separately from the sale price on any record thereof at the time when the sale is made or at the time when evidence of the sale

is issued or employed by the vendor, provided that when added, such tax shall constitute a part of such purchase price or charge and shall be a debt from the purchaser to the vendor until paid and shall be recoverable at law in the same manner as other debts. The tax shall be paid by the purchaser to the vendor, as trustee for and on account of the city, and the vendor shall be liable for the collection therefor and on account of the city.

(c) Taxes paid on the amount of gross sales which are represented by accounts which are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income tax imposed by the laws of the state may be credited upon a subsequent payment of the tax herein provided; but if any such accounts are thereafter collected by the taxpayer, a tax shall be paid upon the amount so collected.

(Code 1994, § 4.08.030; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-281. Vendor responsible for tax.

(a) *Amount*. Every vendor shall add the tax imposed by section 6-278(a) to the purchase price or charge of all lodging within the city.

(b) *Returns*. Every vendor shall, ~~before the twentieth day of February, 1987, and~~ before the 20th day of each month thereafter, make a return to the director of finance for the preceding calendar month ~~Y~~, and remit to the director of finance, simultaneously therewith the total amount due the city. The monthly returns of the vendor as required hereunder shall be made in such manner and upon such forms as the director of finance may prescribe.

(c) *Accounting practice*. If the accounting methods regularly employed by the vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar-month basis will impose unnecessary hardship, the director of finance may, upon request of the vendor, accept returns at such intervals as will, in the director's opinion, better suit the convenience of the vendor and will not jeopardize the collection of the tax.

(Code 1994, § 4.08.035; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-282. Consolidation of returns.

A vendor doing business in two or more places or locations, whether in or without the city and collecting taxes under this chapter, may file one return covering all such places or locations, when accompanied by a supplemental report showing the gross and net taxable sales and taxes collected thereon for each such place or location.

(Code 1994, § 4.08.040; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-283. Applicability of other provisions.

The procedures set out as in chapter 1 of this title, relating to the collection of retail sales and use tax and taxpayer appeals, shall be applicable to the lodger's tax unless they conflict with the provisions of this chapter.

(Code 1994, § 4.08.045; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-284. Earmarking of tax.

The city council, hoping to ensure economic viability for the city by encouraging conventions and visitors to come to the city, creates a special revenue fund to be known as the Conventions and Visitors Fund, said fund to receive all funds imposed by this chapter and to be appropriated in the support of convention and visitor activity.

(Code 1994, § 4.08.050; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-285. License required; exemption.

(a) It shall be unlawful for any person to engage in the business of furnishing lodging, without having first obtained a license therefor under this chapter.

(b) No license shall be required of any person engaged exclusively in the business of furnishing commodities which are exempt from taxation under this chapter.

(c) In instances in which the business of furnishing lodging is conducted or transacted at two or more separate locations by one person, separate licenses for each location of business shall be required.

(Code 1994, § 4.08.055; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-286. Application.

Each license issued under this chapter shall be issued only upon application, stating the name and address of the person desiring such license, including the street number of the business and such other facts as may be reasonably required by the city clerk.

(Code 1994, § 4.08.060; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-287. Fee.

Each license issued under this chapter shall be issued without fee by the city clerk.

(Code 1994, § 4.08.065; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-288. Approval.

No license shall be issued by the city clerk unless and until approved by the director of finance or the duly authorized representative thereof.

(Code 1994, § 4.08.070; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-289. Form.

Each license issued under this chapter shall be numbered and shall show the name, mailing address and place of business of the licensee.

(Code 1994, § 4.08.075; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-290. Display.

Each license issued under this chapter shall be posted in a conspicuous place in the place of business for which it is issued.

(Code 1994, § 4.08.080; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-291. Transfer.

No license issued under this chapter shall be transferable.

(Code 1994, § 4.08.085; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-292. Renewal.

Each license shall be renewed automatically on January 1 of each year, unless revoked, if the licensee remains engaged in the business of furnishing lodging or liable to account for the tax described herein.

(Code 1994, § 4.08.090; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-293. Revocation; hearing.

The finance director may, on reasonable notice and after a hearing, revoke the license of any person found by the director of finance, or his duly authorized representative, to have violated any provisions of this chapter or chapter 1 of this title.

(Code 1994, § 4.08.095; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-294. Appeal.

Any finding and order of the director of finance revoking the license of any person under this chapter shall constitute a final administrative action.

(Code 1994, § 4.08.100; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Sec. 6-295. Violations; penalties.

The following penalties, herewith set forth in full, shall apply to this chapter:

(1) It is unlawful for any person to violate any of the provisions stated or adopted in this chapter.

(2) Every person convicted of a violation of any provisions stated or adopted in this chapter shall be punished as provided in chapter 9 of title 1 of this Code.

(3) Each day that a violation exists shall constitute a separate offense.

(Code 1994, § 4.08.110; Ord. No. 61, 1986, § 1(part), 10-21-1986)

Secs. 6-296--6-323. Reserved.

CHAPTER 3. TELEPHONE OCCUPATION TAX

Sec. 6-324. Short title; purpose.

This chapter shall be known and cited as the "Greeley Telephone Occupational Tax Ordinance of 1970." The city council declares that its intent, in the enactment of this chapter, is to tax, subject to any law of the state now in force or hereafter to be enacted, the occupation of providing telephone service in the city. The city council further declares that its intent, in the enactment of this chapter, is not to levy either an income tax or a sales tax.

(Prior Code, § 19A-95; Code 1994, § 4.12.010; Ord. No. 42, 1980, § 2, 6-3-1980)

Sec. 6-325. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Finance director means the city finance director or his deputy or agent.

~~*Person* includes any individual, firm, partnership, joint venture, association, corporation, company, estates, trust or any group or combination acting as a unit.~~

Tax means the tax on the privilege of engaging in the occupation of providing telephone services in the city.

(Prior Code, § 19A-96(part); Code 1994, § 4.12.020; Ord. No. 42, 1980, § 4(part), 6-3-1980)

Sec. 6-326. Tax rate; payment.

The annual telephone occupation tax provided for in this chapter shall be calculated by multiplying the number of telephone accounts serving each residence, business and all other property within the city, by $8.28 per account per year. The annual telephone occupation tax shall be payable in 12 equal monthly installments, as computed herein, for any month or any part of a month in which the taxpayer provides services within the city. The installment shall be due and payable 20 days from the last business day of each calendar month. The annual occupation tax provided for in this chapter shall be increased or decreased by the actual number of accounts in service during any month in which telephone service is provided within the city.

(Code 1994, § 4.12.030; Ord. No. 88, 1992, § 2, 11-2-1992)

Sec. 6-327. Unpaid taxes; recovery.

If any person, subject to the provisions of this chapter, fails to pay the tax, as provided in this chapter, the full amount thereof shall be due to the city and collected from such person by the city. The city attorney, on direction by the city council, shall commence and prosecute to final judgment and determination of any court of competent jurisdiction an action to collect this debt.

(Prior Code, § 19A-99; Code 1994, § 4.12.040)

Sec. 6-328. Inspection of records.

The city and its officers, agents or representatives shall have the right, at all reasonable hours and times, to examine the books and records of persons subject to the provisions of this chapter and to make copies of the entries or contents of such records.

(Prior Code, § 19A-101; Code 1994, § 4.12.050)

Sec. 6-329. Tax is in addition to others.

The tax required by this chapter shall be in addition to all other taxes imposed by any other ordinance or law.

(Prior Code, § 19A-102; Code 1994, § 4.12.060)

Sec. 6-330. No franchise granted.

This chapter shall not be construed as granting a franchise or franchise rights to any utility.

(Prior Code, § 19A-103; Code 1994, § 4.12.070)

Sec. 6-331. Disputes; decision by director of finance; judicial review.

The finance director, on reasonable notice and after full hearing, may decide any dispute about the amount of the telephone occupation tax to be paid. Any finding and order of the finance director may be judicially reviewed in the manner provided by the Colorado Rules of Civil Procedure or the state statutes.

(Prior Code, § 19A-104; Code 1994, § 4.12.080; Ord. No. 42, 1980, § 6, 6-3-1980)

Sec. 6-332. Violation; penalty.

If any officer, agent or manager of a firm, partnership, joint venture, association, corporation or company, which is subject to the provisions of this chapter, fails, neglects or refuses to make any monthly installment payment in the manner prescribed in this chapter, such officer, agent or manager is guilty of a misdemeanor offense and on conviction, shall be punished by a fine of not less than $25.00 and not more than $999.00. Each day such payment is delinquent shall be considered a separate offense.

(Prior Code, § 19A-100; Code 1994, § 4.12.090; Ord. No. 22, 1982, § 9(part), 5-4-1982; Ord. No. 48, 1985, § 4, 5-7-1985)

Secs. 6-333--6-352. Reserved.

CHAPTER 4. PROPERTY TAX REFUND TO THE ELDERLY

Sec. 6-353. Program title; purpose.

(a) There is enacted a tax refund program to be known as the "Property Tax Refund to the Elderly."

(b) It is the purpose of this program to refund, to the low-income, elderly residents of the city, the city's portion of the preceding year's property taxes which they have paid directly or indirectly by means of rent payments.

(Prior Code, § 19A-111; Code 1994, § 4.16.010)

Sec. 6-354. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City property tax means that portion of the total property tax on any particular parcel of property attributable to the mill levy of the city.

Income means the sum required to be inserted as "Colorado Adjusted Gross Income" on the applicant's state income tax return or the sum that would have been so inserted if the applicant had been required to file a state income tax return.

Members of the applicant's household means the applicant and all persons with whom he lives in a single home or dwelling unit.

Tax year means the calendar year immediately preceding the calendar year in which an application for a refund is made.

(Prior Code, § 19A-112; Code 1994, § 4.16.020)

Sec. 6-355. Eligibility for refund.

The following conditions must exist in order for any person to be eligible for a property tax refund:

(1) The person applying for the refund, or his spouse if they live together, must be 62 years of age or older as of July 31 of the year in which the application is made;

(2) During some part of the tax year, the applicant must have lived in a home or other dwelling unit located in the city and because of his ownership of all or part of the home or other dwelling unit or because of an enforceable contractual obligation, the applicant must have been obligated to pay all or a part of the

property taxes for the tax year and the applicant in fact must have paid, when due, all of the taxes which he was legally obligated to pay;

(3) As an alternative to the requirements of subsection (2) of this section, during some part of the tax year, the applicant must have lived in a home or other dwelling unit located in the city and must have been legally obligated to pay rent with respect to such home or other dwelling unit, and in fact must have paid such rent;

(4) During a major portion of the tax year the applicant was not a member of a household and the applicant's income for the tax year was no greater than $7,500.00; or

(5) As an alternative to the requirements of subsection (4) of this section, during a major portion of the tax year the applicant was a member of a household and the combined incomes for the tax year of the members of the applicant's household did not exceed $12,000.00; and no member of the applicant's household, other than the applicant himself, has claimed or will claim a property tax refund for the same tax year and for the same property.

(Prior Code, § 19A-113; Code 1994, § 4.16.030; Ord. No. 34, 1981, § 2, 5-5-1981)

Sec. 6-356. Filing of application.

Every person desiring a property tax refund must file in the office of the director of finance a written application on a form to be provided by the city, and such application must be filed between May 1 and August 15 of the calendar year in which the taxes sought to be partially refunded were paid. The application form may require any and all information reasonably necessary for the administration of this chapter, and each applicant shall attach to the application a true and correct copy of the state income tax return filed by each member of the applicant's household for the tax year or, if the applicant was not legally obligated to file a tax return, there shall then be attached a statement, verified by the applicant, pertaining to the income eligibility of the applicant and of the members of his household. The application form shall require information pertaining to each property to be considered in computing the total property tax refund and a property tax receipt for each property shall be attached also.

(Prior Code, § 19A-114; Code 1994, § 4.16.040)

Sec. 6-357. Amount of refund.

If an application has been filed in proper form showing compliance with all of the conditions contained in this chapter, the city shall refund to the applicant an amount equal to the total of the amounts refundable under subsections (1) and (2) of this section, but in no event more than $30.00:

(1) The city property tax paid by the applicant for the tax year on each property for which eligibility is established. If, however, eligibility is established for a property in which the applicant lived for less than the full tax year, the amount to be refunded because of that property shall be that fraction of the city property tax thereon as is proportionate to the fraction of the full tax year during which the applicant lived in the property.

(2) A percentage, established in this subsection at 25 percent of one month's rent, computed on an average and paid by the applicant, is established. If the applicant lived in a property for which he paid rent for less than a full tax year, the amount otherwise refundable pursuant to this subsection because of that property shall be reduced in proportion to the fraction of the full tax year during which the applicant did not live in the property.

(3) Notwithstanding any other provision of this chapter to the contrary, the amount refunded to any one applicant for any one tax year shall not exceed $30.00.

(Prior Code, § 19A-115; Code 1994, § 4.16.050; Ord. No. 34, 1981, § 4, 5-5-1981)

Sec. 6-358. Death of applicant.

The right to a property tax refund shall terminate upon the death of any applicant who dies before the date selected by the director of finance for the payment of the property tax refunds. All funds which had been set aside for applicants who die before the payment date shall be transferred to the general fund of the city.

(Prior Code, § 19A-117; Code 1994, § 4.16.060)

Sec. 6-359. Claims exceeding budget; reduction.

If the total property tax refunds claimed in any particular year exceed the funds appropriated in that year's budget for this program, the claims otherwise allowable will be reduced pro rata. Claims subject to the thirty-dollar limitation provided in section 6-357 shall be subject to further reduction pursuant to the provisions of this section.

(Prior Code, § 19A-118; Code 1994, § 4.16.070)

Sec. 6-360. Authority of director of finance.

The director of finance may promulgate such rules and regulations as he deems appropriate for the administration of this chapter and such rules and regulations may, among other things, impose reasonable requirements upon applicants regarding proof of eligibility.

(Prior Code, § 19A-119; Code 1994, § 4.16.080)

Sec. 6-361. False statements or information prohibited.

No person applying for benefits under this chapter shall make any false statement or submit any false information, either knowingly or with a careless disregard for the truth of the statement made or information submitted. A violation of this section shall constitute a misdemeanor infraction and shall be punishable as provided in chapter 9 of title 1 of this Code.

(Prior Code, § 19A-120; Code 1994, § 4.16.090; Ord. No. 22, 1982, § 9(part), 5-4-1982)

Secs. 6-362--6-380. Reserved.

CHAPTER 5. RISK MANAGEMENT

Sec. 6-381. Purpose and intent.

(a) The city council recognizes that there is an extraordinary need to address methods to protect the city and its employees against claims brought under the provisions of the Colorado Governmental Immunity Act and arising under federal law.

(b) The city council recognizes the undesirable consequences of uninsured liability of the city, including failure to respond to meritorious claims in a timely fashion and greater ultimate costs of settlement caused by failure to investigate claims in an orderly and timely manner. The city council declares, therefore, that the appropriate remedy is to create a reserve fund for the purposes of self-insurance of the city to the extent that insurance coverage has not been obtained. The city council declares that the purpose of this chapter is to create a claims reserve fund; provide a mechanism for claims adjustment, investigation and defense; and authorize the settlement and payment of claims and payment of judgments rendered against the city for such claims or judgments arising out of violation of federal law or pursuant to any action which lies in tort or could lie in tort regardless of whether that may be the type of cause of action chosen by the claimant. The city council finds that, in order to adequately protect the city and carry out these purposes, it is necessary to authorize the special projects manager to perform these risk management services for the city. The city council further declares its intent to continuously explore the availability of commercial liability insurance policies of all types, including, but not limited to, variable deductible amounts as a supplement or in lieu of the self-insurance reserve fund herein provided in order to ensure that the costs of protecting the city against liability are minimized.

(Code 1994, § 4.18.010; Ord. No. 18, 1987, § 1(part), 4-7-1987)

Sec. 6-382. Duties of risk manager.

(a) The city manager shall designate a risk manager who shall have all powers and responsibilities as set forth in this chapter.

(b) The risk manager shall have the following duties:

(1) To coordinate and administer a comprehensive risk management program that serves the city;

(2) To administer the investigation and processing of claims brought against the city;

(3) To oversee those persons or parties who may contract with the city to provide claims investigation, claims adjustment and support services;

(4) To develop and administer a system that identifies and reduces the property and liability losses, insurance costs and administrative costs of risk management incurred by each department of the city;

(5) To advise the city manager with respect to specifications of and the need for procuring commercial insurance, if any, to protect the city against liability;

(6) Such other functions and duties as assigned by the city manager.

(Code 1994, § 4.18.020; Ord. No. 18, 1987, § 1(part), 4-7-1987)

Sec. 6-383. Claims Reserve Fund.

(a) There is created a fund to be known as the Claims Reserve Fund, which shall consist of all monies which may be appropriated thereto from time to time by the city council as it may deem necessary, or which may be otherwise made available to it by the city council. All interest earned from the investment of monies in the Claims Reserve Fund shall be credited to that fund and become a part thereof.

(b) The Claims Reserve Fund, established pursuant to this section, shall be kept separate and apart from all other funds and shall be used only in accordance with this section. At the end of any fiscal year, all unexpended and unencumbered monies in the Claims Reserve Fund shall remain therein and shall not be credited or transferred to any other fund, except as provided by city council in any given annual budget ordinance.

(c) The Claims Reserve Fund shall maintain sufficient funds for incurred but unpaid liability claims for injuries which lie in or could lie in tort regardless of whether that may be the type of action chosen by the claimant and for claims arising out of federal law. The Claims Reserve Fund shall also maintain funds to cover all actual or anticipated claims and expenses for any given or future year. The risk manager, after consultation with the director of finance and the city attorney, shall recommend the amount of money that is required to maintain adequate reserves, both for current and future claims.

(d) Expenditures out of the Claims Reserve Fund shall be made only for the following purposes:

(1) To pay liability claims and expenses related thereto brought against the city, its employees or officials pursuant to the Colorado Governmental Immunity Act and claims against the city and its officials or employees arising under federal law, which the city is legally obligated to pay and which are compromised or settled pursuant to this chapter or in which a final money judgment against the city has been entered, and which are not otherwise covered by a commercial liability insurance policy;

(2) To pay the costs of defense, including expert witness fees and outside counsel legal fees, and investigation and other related defense costs in connection with claims brought pursuant to the requirements of subsection (d)(1) of this section;

(3) To pay premiums and deductible amounts pursuant to any commercial liability insurance policy purchased by the city in lieu of or in addition to the reserve fund provided in this chapter;

(4) To pay claims for damages to city-owned rolling stock considered to be capital outlay;

(5) To pay direct employee salary, benefit and other operating costs associated with administration of the risk management program;

(6) To pay risk mitigation expenses not otherwise covered by insurance at the discretion of the risk manager.

(e) Monies in the Claims Reserve Fund shall not be used to pay any of the following:

(1) Claims for liabilities or losses which are eligible for payment under any existing commercial insurance policy;

(2) All claims other than those which arise under federal law or which lie or could lie in tort regardless of whether that may be the type of action chosen by the claimant; and

(3) Any other claim or expense not set forth in subsection (d) of this section.

(f) The director of finance shall be responsible for the management and investment of the Claims Reserve

Fund.

(g) The setting aside of reserves for self-insurance purposes in the Claims Reserve Fund created in this section shall not be construed to create an insurance company nor shall the Claims Reserve Fund otherwise be subject to the provisions of the laws of the state regarding insurance or insurance companies. The requirements of C.R.S. title 10, art. 4, as amended from time to time, concerning self-insurance under the Colorado Auto Accident Reparations Act are not applicable to this chapter.

(h) Disbursements made from the Claims Reserve Fund for eligible expenditures shall be initiated by the preparation of a warrant requisition to the director of finance from the risk manager in accordance with the authority set forth in sections 6-384 and 6-387. All requests for disbursements from the Claims Reserve Fund shall be given the highest priority by the director of finance with respect to the processing and preparation of a warrant in connection with the compromise or settlement of claims or the payments of judgments.

(i) Beginning on or before June 1, 1988, and on or before June 1 of each year thereafter, the risk manager, in consultation with the director of finance, shall report to the city council regarding the operation and management of the Claims Reserve Fund. Examination shall be made to ensure proper underwriting techniques and accounting practices. The report shall show, but not be limited to, the name of all lending institutions, funds or other depositories where risk management funds have been deposited, the sums of money on deposit therein, the interest paid or credited thereon, the rate of interest so credited, the amounts of all settlements, recommended reserve fund levels and a review of the procedures utilized in the claims and risk management system.

(Code 1994, § 4.18.030; Ord. No. 18, 1987, § 1(part), 4-7-1987; Ord. No. 35 § 1, 2010; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 6-384. Settlement of claims.

(a) It shall be the responsibility of the risk manager, in consultation with the city attorney, to investigate all claims filed against the city or its employees pursuant to the requirements of the Governmental Immunity Act or arising under federal law in accordance with this chapter. Prior to settling any claim as provided in subsections (b)(1) or (b)(2) of this section, the risk manager may consult with the head of the affected department to determine the appropriateness of the compromise or settlement amount; provided, however, that the ultimate decision shall rest with the risk manager. Nothing herein, however, shall preclude the risk manager from referring a claim to the claims review board or to the city council, as appropriate.

(b) The following parties are authorized to make compromises or settlement on behalf of the city in the following amounts:

(1) The risk manager or his designee or agent, including any private person or firm retained by the risk manager to provide professional claims adjustment services, is authorized to settle claims for an amount not to exceed $5,000.00.

(2) The risk manager is authorized to settle claims for an amount not to exceed $10,000.00.

(3) The claims review board, as established in section 6-385, is authorized to settle claims for an amount not to exceed $50,000.00.

(4) The city council is authorized to settle claims for an amount not to exceed the maximum liability limits under the Colorado Governmental Immunity Act for claims which lie or could lie in tort regardless of the nature of the action which is brought by the claimant and for such other amounts which the city council deems appropriate with respect to claims arising under federal law.

(c) No claims shall be settled unless supported by a claims settlement report, which will give a concise statement of the nature of the claim, the history of the proceedings and a recommendation from the risk manager or his designee.

(d) In investigating claims brought against the city and its officials or employees, the risk manager or his designee shall have authority to seek the advice and cooperation of all departments of the city with respect to establishment of facts, determination of liability and assistance in utilization of the professional expertise of various employees within the city in connection with those claims. Such advice and assistance shall be provided on a timely basis.

(e) No claim shall be settled pursuant to the requirements of this section unless the claimant has executed

and presented a full release or discharge of liability to the city and its officers and employees arising out of the facts under that claim unless otherwise authorized by the risk manager and the city attorney.

(f) All action and findings by the risk manager or his designee pursuant to this section shall remain confidential and shall be considered investigation and fact-finding in anticipation of litigation under the supervision of the city attorney.

(Code 1994, § 4.18.040; Ord. No. 18, 1987, § 1(part), 4-7-1987)

Sec. 6-385. Claims review board.

(a) There is created a claims review board which shall consist of the city manager or his designated representative, the risk manager, the city attorney or his designee assistant city attorney, the director of finance and the department head involving a claim within his department. The claims review board shall meet only when required to determine whether or not to compromise or settle a claim within the authorities provided to in section 6-384. Three members present shall constitute a quorum of the board.

(b) The risk manager or his designee shall act as the secretary of the claims review board and shall be responsible for preparing its agenda and providing the board with all applicable reports and documentation necessary to properly assess claims brought before it.

(c) It shall be the responsibility of the risk manager and the city attorney or his designee assistant city attorney to prepare a claims assessment in connection with each claim brought before the claims review board, and that claims assessment shall meet all of the requirements, as a minimum, of the claims settlement report as set forth in subsection 6-384(c). Said claims assessment shall remain confidential and shall be considered investigation and fact-finding in anticipation of litigation under the supervision of the city attorney.

(Code 1994, § 4.18.050; Ord. No. 18, 1987, § 1(part), 4-7-1987; Ord. No. 56, 1994, § 1, 12-20-1994)

Sec. 6-386. Rules and regulations.

In order to carry out the purposes of this chapter, the risk manager may promulgate reasonable rules and regulations governing the following:

(1) The administration of programs authorized in this chapter;

(2) The management and administration of the investigation and adjustment of claims brought against the city, its officials and employees;

(3) The approval of and contract administration of parties who have contracted with the city to provide claims investigation, claims adjustment and support services;

(4) Development of procedures and standard forms required for the processing of the claims for compromise, settlement or denial;

(5) Subject to approval by the city attorney, preparation of documents required to discharge or hold harmless the city and its officers and employees from liability under a claim; and

(6) Standards for compromising and settling claims brought against the city or its employees or officials.

(Code 1994, § 4.18.060; Ord. No. 18, 1987, § 1(part), 4-7-1987)

Sec. 6-387. Litigation.

(a) Pursuant to the requirements of the city Charter and article IV of chapter 7 of title 2 of this Code, the city attorney shall have the responsibility to represent the city and its officers and employees, as applicable, in connection with all litigation arising under claims brought pursuant to this chapter.

(b) The city attorney, or his duly authorized assistants, shall have the authority to settle litigated claims up to $5,000.00. Settlements beyond $5,000.00 but less than $50,000.00 shall require the prior approval of the claims review board, and settlements over $50,000.00 shall require the prior approval of city council; provided, however, that nothing herein shall preclude the city attorney, in his discretion, from presenting any such settlement, regardless of amount, directly to the city council for approval.

(c) The city attorney shall have the power to authorize requests to the risk manager for disbursements from

the Claims Reserve Fund or such other appropriate accounts in connection with litigation expenses, including, but not limited to, outside counsel fees, defense costs, expert witness fees and preparation of such demonstrative evidence as is necessary to properly and reasonably defend the city, its officers and employees in connection with said litigation.

(d) The city attorney shall have the authority to contract for outside counsel in connection with litigation arising out of claims brought pursuant to this chapter, and may request disbursement from the Claims Reserve Fund or such other appropriate funds as set forth in subsection (c) of this section.

(e) In addition to a quarterly litigation report, the city attorney shall be responsible for providing a litigation settlement report to the city council and the risk manager for all cases which have been settled without the prior knowledge of city council pursuant to the requirements of this section.

(Code 1994, § 4.18.070; Ord. No. 18, 1987, § 1(part), 4-7-1987)

Sec. 6-388. Immunities.

Nothing contained in this chapter shall constitute or be construed as a waiver of any immunity or legal defense as provided the city under common law or the Colorado Governmental Immunity Act, or any other state or federal statute or ordinance.

(Code 1994, § 4.18.080; Ord. No. 18, 1987, § 1(part), 4-7-1987)

Secs. 6-389--6-419. Reserved.

CHAPTER 6. PURCHASING*

~~***Editor's note*** — Ord. No. 17, 2018 , § 1(exh. A, B), adopted April 3, 2018, repealed and reenacted Ch. 4.20 §§ 4.20.010 — 4.20.590 as set out herein. The former Ch. 4.20 pertained to similar subject matter and derived from Ord. 75, 1984 §2(part); Ord. No. 54, 1986, § 1, 1986; Ord. No. 55, 1986, § 1, 1986; Ord. No. 8, 1988, § 1, 1988; Ord. No. 14, 1992, § 3, 1992; Ord. No. 56, 1994, § 1, 12-20-1994; Ord. No. 67, 1995, § 1, 1995; Ord. No. 15, 2002, § 1, 2002; Ord. No. 16, 2002, § 1, 2002; Ord. No. 23, 2002, § 1, 2002; Ord. No. 26, 2011, § 1, 9-6-2011; Ord. 23, 2013 §1.~~

ARTICLE I. GENERAL PROVISIONS

Sec. 6-420. Purpose.

The purpose of this chapter is to provide for the fair and equitable treatment of all persons involved in public purchasing by the city, to maximize the purchasing value of public funds in procurement and to provide safeguards for maintaining a procurement system of quality and integrity.

(Code 1994, § 4.20.010; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-421. Application.

This chapter applies to contracts for the procurement of supplies, services and construction. It shall apply to every expenditure of public funds by a public agency for public purchasing irrespective of the source of the funds. All expenditures shall be charged to the appropriate budget account under the direction of the director of finance. Expenditures may be made by check, electronic transfer or any other legal payment method as approved by the director of finance. All checks shall be signed or authorized by both the mayor and the director of finance. When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall also be conducted in accordance with any mandatory applicable federal law and regulations. Nothing in this chapter shall prevent any public agency from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law.

(Code 1994, § 4.20.020; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-422. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alternative project delivery means methods of contracting wherein the solicitation, evaluation, selection, and contracting for a project is accomplished through use of a design/build, construction manager at risk, construction

manager/general contractor, or other non-traditional means.

Architect, engineer and *land surveying services* means those professional services within the scope of the practice of architecture, professional engineering or land surveying, as defined by the state laws.

Blind trust means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in, or other dispositions of, the property subject to the trust.

Brand name or *equal specification* means a specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance and other salient characteristics needed to meet the city requirements, and which provides for the submission of equivalent products.

Brand name specification means a specification limited to one or more items by manufacturers' names or catalogue numbers.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.

Change order means a written order signed and issued by the purchasing ~~manager~~ official, directing the contractor to make changes which the changes clause of the contract authorizes the purchasing ~~manager~~ official to order without the consent of the contractor.

Confidential information means any information which is available to an employee only because of the employee's status as an employee of the city and is not a matter of public knowledge or authorized to be disclosed to the public on request.

Construction means the process of building, altering, repairing, improving or demolishing any public structure, or building or other public improvements of any kind to any public real property. The term "construction" does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

Construction management at risk (CMAR) means a contract that allows for a delivery method which entails a commitment by the construction manager to deliver the project within a guaranteed maximum price.

Construction manager/general contractor (CMGC) means a unique method used to accelerate project delivery where the owner hires a contractor to provide feedback during the design phase before the state of construction.

Contract means all types of city agreements, regardless of what they may be named, for the procurement of supplies, services or construction.

Contract modification (bilateral change) means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

Contractor means any person having a contract with the city.

Cooperative purchasing plan means a program that allows the city to share a procurement contract between governments or nonprofit organizations that have competitively bid and vetted vendors for a variety of products and services.

Cooperative purchasing analysis means the evaluation of cost data for the purpose of arriving at cost actually incurred or estimates of costs to be incurred, prices to be paid and costs to be reimbursed.

Cost data means factual information concerning the cost of labor, material, overhead and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

Cost-reimbursement contract means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this chapter, and plus a fee, if any.

Design-bid-build means a project delivery method in which the city sequentially awards separate contracts, the first award for architectural and engineering services to design the project and the second award for construction of the project according to the design, after solicitation of an invitation for bids.

Design-build means a project delivery method in which the city awards a single contract for design and

construction of a project.

Direct or indirect participation means involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity.

Disadvantaged business means a small business which is owned or controlled by a majority of persons not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages as defined by state law.

Electronic means electrical, digital, magnetic, optical, electromagnetic or any other similar technology.

Emergency procurements means procurements of supplies, services or construction items when there exists a threat to public health, welfare or safety, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances.

Employee means an individual drawing a salary or wages from the city, whether elected or not; any noncompensated individual performing personal services for the city or any department, agency, commission, council, board or any other entity established by the executive or legislative branch of the city; and any noncompensated individual serving as an elected official of the city.

Financial interest means:

(1) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than $1,000.00 per year or its equivalent; or

(2) Ownership of five percent of any property or business.

Grant means the furnishing by the city of assistance, whether financial or otherwise, to any person or group to support a program authorized by law.

Gratuity means a payment, loan, subscription, advance, deposit of money, service or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

Immediate family means a spouse, children, parents, brothers and sisters.

Invitation for bids means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

Person means any business, individual, union, committee, club, other organization or group of individuals.

Price analysis means the evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.

Pricing data means factual information concerning prices for items substantially similar to those being procured. The term "prices" in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition of the term "pricing data" refers to data relevant to both prime and subcontract prices.

Procurement means the buying, purchasing, renting, leasing or otherwise acquiring of any supplies, services or construction. The term "procurement" also includes all functions that pertain to the obtaining of any supply, service or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

Professional services means services of a specialized nature, including, but not limited to, architecture, engineering, surveying, appraisals, accounting, training, and laboratory testing, the final product of which is predominantly oral or written advice or information or services as promulgated by the city manager.

Public agency means a public entity subject to or created by the city.

Public notice means the distribution or dissemination of information to interested parties using methods that are determined by the city, such methods may include publication in newspapers of general circulation, electronic or paper mailing lists and websites designated by the city and maintained for that purpose.

Purchasing official is the employee designated by the finance director to perform duties and responsibilities as provided in sections 6-445, and 6-446.

Qualified products list means an approved list of supplies, services or construction items described by model or catalogue numbers, which, prior to competitive solicitation, the city has determined will meet the applicable specification requirements.

Request for proposals means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

Responsible bidder or offeror means a person who has the capability, in all respects, to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit, which will ensure good faith performance.

Responsive bidder or offeror means a person who has submitted a quote, proposal, or bid which conforms in all material respects to the requirements set forth in the invitation for bids.

Services means the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. The term "services" shall not include employment agreements or collective bargaining agreements.

Signature means a manual or electronic identifier, or the electronic result of an authentication technique attached to or logically associated with a record that is intended by the person using it to have the same force and effect as a manual signature. Electronic signatures are as allowed by the Uniform Electronic Transactions Act, C.R.S. title 24, art. 71.3, as amended from time to time.

Small business means a United States business which is independently-owned and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation and meets the small business size standards established by the U.S. Small Business Administration, as amended from time to time.

Sole source means after conducting a good faith review of available sources, that there is only one source for the required supply, service or construction firm.

Specification means any description of the physical or functional characteristics or of the nature of a supply, service or construction item. It may include a description of any requirement for inspection, testing or preparing a supply, service or construction item for delivery.

Statement of qualifications (SOQ) means a written document outlining the reasons why a company or person is qualified to provide a certain professional service. A typical SOQ outlines a description of the company, key personnel assigned to projects, project approach, management skills and examples of similar successful projects.

Supplies means all property, including, but not limited to, equipment, materials, printing, insurance and leases or real property, excluding land or a permanent interest in land.

Using agency means any department, commission, board or public agency of the city requiring supplies, services or construction procured pursuant to this chapter.

Written or *in writing* means the product of any method of forming characters on paper, other materials or viewable screens, which can be read, retrieved and reproduced, including information that is electronically transmitted and stored.

(Code 1994, § 4.20.030; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-423. Public access to procurement information.

Procurement information shall be a public record to the extent provided in C.R.S. title 24, art. 72, as amended from time to time, and shall be available to the public as provided in such statutes.

(Code 1994, § 4.20.040; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Secs. 6-424--6-444. Reserved.

ARTICLE II. PURCHASING OFFICIAL

Sec. 6-445. Authority and duties.

(a) The finance director shall designate a principal public purchasing official, and shall be responsible for the procurement of materials, supplies, equipment, services and construction in accordance with this chapter, as well as the management and disposal of supplies.

(b) Duties. In accordance with this chapter, and subject to the supervision of the finance director, the designated purchasing official shall:

(1) Procure or supervise the procurement of all supplies, services and construction needed by the city;

(2) Exercise direct supervision over the city's central stores and such other inventories belonging to the city for which he is given responsibility;

(3) Sell, trade or otherwise dispose of surplus supplies belonging to the city; and

(4) Establish and maintain programs for specifications development, contract administration and inspection and acceptance, in cooperation with the public agencies using the supplies, services and construction.

(c) Operational procedures. Consistent with this chapter and with the approval of the city manager or the finance director, the designated official may adopt operational procedures relating to the execution of his duties.

~~Wherever the term "purchasing manager" appears in the Code, it is hereby changed to read "purchasing official." That term also appears elsewhere in the Code.~~

(Code 1994, § 4.20.060; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-446. Delegations to other city officials.

Notwithstanding the provisions of section 6-445, procurement authority with respect to certain supplies, services or construction may be delegated to other city officials by the finance director with the concurrence of the city manager when such delegation is deemed necessary for the effective procurement of these supplies, services or construction. All such delegated procurements shall be conducted pursuant to this chapter and regulations promulgated hereunder. Pursuant to this section, in the event a city official other than the purchasing official is designated to make a procurement, all references to specific purchasing activities by the purchasing official in this chapter shall refer and be applicable to said designated city official. All references to the general duties of the purchasing official in this chapter shall not be applicable to the designated city office.

(Code 1994, § 4.20.070; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Secs. 6-447--6-475. Reserved.

ARTICLE III. SOURCE SELECTION AND CONTRACT FORMATION

Sec. 6-476. Responsibility for selection.

The purchasing official, in cooperation with the director of public works or the water and sewer director, shall have discretion to select the appropriate method of construction contracting management of a particular project. In determining which method to use, the purchasing official shall consider the city's requirements, its resources and the potential contractor's capabilities. The purchasing official shall execute and include in the contract file a written statement setting forth the basis which led to the selection of a particular method of construction contracting management for each project.

(Code 1994, § 4.20.075; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-477. Competitive sealed bidding.

(a) *Conditions for use*. All contracts for amounts above $50,000.00 entered into by the city shall be awarded by competitive sealed bidding except as otherwise provided in sections 6-478, 6-480, 6-483~~, 4.20.120, 4.20.135 and 4.20.370~~.

(b) *Invitation for bids*. An invitation for bids shall be issued and shall include specification and all contractual terms and conditions applicable to the procurement.

(c) *Public notice*. Adequate public notice of the invitation for bids shall be given a reasonable time, not less than 15 calendar days prior to the date set forth therein for the opening of bids unless circumstances require a shorter period as determined by the purchasing official. Such notice may include the use of electronic solicitation. Such notice may include publication in a newspaper of general circulation a reasonable time prior to bid opening. The public notice shall state the place, date and time of bid opening.

(d) *Bid opening*. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as the purchasing official deems appropriate, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection in accordance with section 6-423. In the event of strikes, wars, acts of God or other good cause, as determined by the purchasing official, bid openings may be extended for a reasonable time not to exceed 30 calendar days.

(e) *Bid acceptance and bid evaluation*. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.

(f) *Award*. The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event the low responsive and responsible bid for a construction project exceeds available funds, as certified by the finance director, the purchasing official is authorized, when time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds.

(g) *Multi-step sealed bidding.* When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

(Code 1994, § 4.20.080; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-478. Competitive sealed proposals.

(a) *Conditions for use.* When the purchasing official determines that the use of competitive sealed bidding is either not practical or not advantageous, the city may enter into a contract by use of the competitive sealed proposals method.

(b) *Request for proposals.* Proposals shall be solicited through a request for proposals.

(c) *Public notice.* Adequate public notice of the request for proposals shall be given in the same manner as provided in subsection 6-477(c) of this section, provided that the minimum time shall be 15 calendar days unless circumstances require a shorter period as determined by the purchasing official. Such notice may include the use of electronic solicitation.

(d) *Receipt of proposals.* No proposals shall be handled so as to permit disclosure of the contents of any proposal during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered.

(e) *Evaluation criteria.* The request for proposals shall state the relative importance of price and other evaluation criteria.

(f) *Discussion with responsible offerors and revisions to proposals.* As provided in the request for proposals, discussions may be conducted with responsible and responsive offerors who submit proposals determined to be reasonably susceptible of being selected for award, for the purpose of clarification to ensure full understanding of

and conformance to the solicitation requirements. Offerors shall be accorded fair and equal treatment, with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.

(g) *Award*. Award shall be made to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration price and the evaluation factors set forth in the request for proposals or in the city's purchasing policies. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

(Code 1994, § 4.20.090; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-479. Specialized contracting procedures.

Nothing in this chapter shall prohibit the city from using alternative delivery procedures when authorized by state law. If state law authorizes such procedures, they need not also be specifically authorized by this chapter. Such specialized procedures may include, without limitation, prequalification of general contractors or subcontractors, construction manager at risk, construction manager/general contractor and design/build contracting procedures.

(Code 1994, § 4.20.095; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-480. Contracting for professional services.

(a) *Authority*. In accordance with this section, the city may procure professional services. Any using agency requiring such services may procure them on its own behalf, in accordance with the selection procedures specified in this section. A using agency or department procuring such services shall consult with the purchasing official. In accordance with the city Charter, no contract for the services of legal counsel may be awarded without the approval of the city attorney.

(b) *Selection procedure.*

(1) *Conditions for use.* Except as provided under ~~sections 4.20.120 or 4.20.130 of~~ this article, the professional services designated in subsection (a) of this section shall be procured in accordance with this subsection.

(2) *Statement of qualifications.* Persons engaged in providing the designated types of professional services may submit statements of qualifications and expressions of interest in providing such professional services. A using agency using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

(3) *Form of request for proposals.* The request for proposals shall describe the services required, list the types of information and data required of each offeror and state the required qualifications and relative importance of each qualification.

(4) *Negotiation and award.* The using agency procuring service, in collaboration with the purchasing official, shall negotiate a contract with the provider considered to be the most qualified, fair and reasonable to the city. In making this decision, the using agency shall take into account the estimated value, the scope, the complexity and the professional nature of the services to be rendered. Should negotiations fail to yield a satisfactory contract with the firm considered to be the most qualified at an acceptable price, negotiations with that firm shall be formally terminated. The using agency shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the using agency shall formally terminate negotiations. The using agency shall then undertake negotiations with the third most qualified firm. Should the using agency be unable to negotiate a contract at a fair and reasonable price with any of the selected firms, additional firms will be selected in the order of competence and qualifications and the using agency shall continue negotiations in accordance with this section until an agreement is reached.

(Code 1994, § 4.20.100; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-481. Non-competitive negotiation.

(a) When sole source or emergency procurement situations arise or when the standard competitive processes are deemed impractical, the finance director or their designee may enter into noncompetitive negotiations in the best interest of the city, including:

(1) Extension of existing contract where a vendor offers to extend an existing contract under the same conditions and at the same or lower price, and such extension is in the best interest of the city;

(2) Service on existing equipment if it is to the city's advantage to obtain parts, repair or service on existing equipment, its supplies or software from a factory-authorized dealer or manufacturer;

(3) Reduced total cost due to, among other things, closer location, more advantageous time allowances or similar variable factors that can reduce the total cost of the product or service;

(4) A particular material or service is required to maintain interchangeability or compatibility as a part of an existing integrated system;

(5) The material is perishable;

(6) The material qualifies as fine art;

(7) The particular material is required to match materials in use, so as to produce visual harmony; or

(8) Where competitive solicitation procedures have failed to provide sufficient responsive, responsible bidders.

(b) Written determination of the basis for the noncompetitive negotiation and basis for the selection shall be included in the contract file.

(Code 1994, § 4.20.105; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-482. Cooperative purchasing and contracting.

City representatives shall have the authority to join with other units of government in cooperative purchasing and contracting plans when the best interests of the city would be served thereby.

(Code 1994, § 4.20.108; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

~~**Editor's note**— Ord. No. 17, 2018 , § 1(exh. A, B), adopted April 3, 2018, set out provisions intended for use as 4.20.105. To preserve the sequential order of this article, and at the editor's discretion, these provisions have been included as 4.20.108.~~

Sec. 6-483. Small purchases.

(a) *General*. Any contract not exceeding $50,000.00 may be made in accordance with the small purchase procedures authorized in this section. Contract requirements shall not be artificially divided so as to constitute a small purchase under this section.

(b) *Small purchases over $10,000.00*. Insofar as it is practical in excess of $10,000.00, no less than three businesses shall be solicited to submit quotations. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations and the date and amount of each quotation shall be recorded and maintained as a public record.

(c) *Small purchases under $10,000.00*. The purchasing official shall adopt operational procedures for making small purchases of $10,000.00 or less. Such operational procedures shall provide for obtaining adequate and reasonable competition for the supply, service or construction being purchased. Further, such operational procedures shall require the preparation and maintenance of written records adequate to document the competition obtained, properly account for the funds expended, and facilitate an audit of the small purchase made.

(Code 1994, § 4.20.110; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-484. Cancellation of request for proposal, and invitation to bids, and other solicitations.

An invitation for bids, a request for proposals or other solicitation may be canceled, all bids or proposals may be rejected in whole or in part, as may be specified in the solicitation, when it is for good cause and in the best interest of the city. The reasons therefor shall be made part of the contract file.

(Code 1994, § 4.20.140; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-485. Responsibility of bidders and offerors.

(a) *Determination of nonresponsibility*. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility, setting forth the basis of the finding, shall be prepared by the purchasing official. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the contract file and be made a public record.

(b) *Right of nondisclosure*. Information furnished by a bidder or offeror pursuant to this section shall not be disclosed by the city without prior written consent by the bidder or offeror.

(Code 1994, § 4.20.150; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-486. Change orders.

All change orders are processed on a form with the need and source of funds. The description shall include what impacts this change order will have on the future of the project's availability of monies. Department directors may approve any and all change orders within the budgeted contingency. The budgeted contingency shall be included in all original project budgets as adopted with the city's adopted budget. city council consideration is required for cumulative change orders that would add 25 percent or more to the original contract cost of $100,000.00 or greater. If the original contract cost is less than $100,000.00 and the cumulative value of change orders are greater than 25 percent of the original contract price, then the city manager's signature is required.

(Code 1994, § 4.20.160; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018; Ord. No. 27, exh § 4.20.160, 7-2-2019)

Sec. 6-487. Bid and performance bonds for contracts.

(a) *In general*. Bid and performance bonds or other security may be requested for supply contracts or service contracts as the purchasing ~~manager~~ official or head of a using agency deems advisable to protect the city's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

(b) *Bid security*.

(1) *Requirement for bid security*. Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the purchasing official to exceed $50,000.00. Bid security shall be a bond provided by a surety company authorized to do business in the state, or the equivalent in cash or otherwise supplied in a form satisfactory to the city. Nothing herein shall prevent the requirement of such bonds on construction contracts under $50,000.00 when the circumstances warrant.

(2) *Amount of bid security*. Bid security shall be in an amount of at least five percent of the amount of the bid.

(3) *Rejection of bids for noncompliance with bid security requirements*. When the invitation for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply only in a nonsubstantial manner with the security requirements.

(c) *When required; amounts*. When a construction contract is awarded in excess of $50,000.00, the following bonds or security shall be delivered to the city and shall become binding on the parties upon the execution of the contract:

(1) A performance bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, in an amount equal to 100 percent of the price specified in the contract;

(2) A payment bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise executed in a manner satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in

the contract. The bond shall be in an amount equal to 100 percent of the price specified in the contract;

(3) The purchasing official may require a performance bond for any contract less than $50,000.00;

(4) Reduction of bond amounts. With the concurrence of the funding department's director, the purchasing official is authorized to reduce the amount of performance and payments bonds to 50 percent of the contract price for each bond when a written determination is made that it is in the best interests of the city to do so.

(d) *Authority to require additional bonds*. Nothing in this section shall be construed to limit the authority of the city to require a performance bond or other security in addition to those bonds or in circumstances other than specified in subsection (a) of this section.

(e) *Suits on payment bonds; right to institute*. Unless otherwise authorized by law, any person who has furnished labor or material to the contractor or subcontractors for the work provided in the contract, for which a payment bond is furnished under this section and who has not been paid in full within 90 days from the date on which that person performed the last of the labor or supplied the material, shall have the right to sue on the payment bond for any amount unpaid at the time the suit is instituted and to prosecute the action for the amount due that person. However, any person having a contract with a subcontractor of the contractor, but no express or implied contract with the contractor furnishing the payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within 90 days from the date on which that person performed the last of the labor or supplied the material. That person shall state in the notice the amount claimed and the name of the party to whom the material was supplied or for whom the labor was performed. The notice shall be served personally or by certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business.

(f) *Suits on payment bonds; where and when brought*. Unless otherwise authorized by law, every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the county or district in which the construction contract was to be performed. No such suit shall be commenced after the expiration of six months after the day on which the last of the labor was performed or material was supplied by the person bringing suit.

(Code 1994, § 4.20.180; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-488. Copies of bond forms.

Any person may request and obtain from the city a certified copy of a bond upon payment of an appropriate fee as established in accordance with section 1-38. A certified copy of a bond shall be prima facie evidence of the contents, execution and delivery of the original in accordance with the city's fee schedule.

(Code 1994, § 4.20.185; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-489. Types of contracts.

(a) *General authority*. Subject to the limitations of this section, any type of contract which is appropriate to the procurement and which will promote the best interests of the city may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited.

(b) *Multi-term contracts*.

(1) *Specified period*. Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interests of the city, provided that the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.

(2) *Determination prior to use*. Prior to the utilization of a multi-term contract, it shall be determined in writing:

a. That estimated requirements cover the period of the contract and are reasonably firm and continuing; and

b. That such a contract will serve the best interest of the city by encouraging effective competition or

otherwise promoting economies in the city procurement.

(3) *Cancellation due to unavailability of funds in succeeding fiscal periods.* When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract may be cancelled and the city shall reimburse the contractor for expenses incurred during the contract period.

(c) *Multiple source contracting*. A multiple source award may be made when an award to two or more bidders or offerors for similar supplies or services is necessary for adequate delivery, service or product compatibility.

(Code 1994, § 4.20.190; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-490. Contract administration.

A contract administration system designed to ensure that a contractor is performing in accordance with the solicitation under which the contract was awarded and the terms and conditions of the contract shall be maintained.

(Code 1994, § 4.20.210; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-491. Right to inspect plant.

The city may, at reasonable times, inspect the part of the plant, place of business or worksite of a contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the city, at the city's cost.

(Code 1994, § 4.20.240; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-492. Right to audit records.

(a) The city may, at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data to the extent such books, documents, papers and records are pertinent to cost or pricing data.

(b) The city shall be entitled to audit the books and records of any contractor or subcontractor when a negotiated contract is not a firm, fixed-price contract.

(Code 1994, § 4.20.250; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-493. Anticompetitive practices.

When, for any reason, collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the city attorney, who shall submit the information to the state attorney general and the district attorney for the 19th Judicial District, Weld County, Colorado.

(Code 1994, § 4.20.260; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Secs. 6-494--6-524. Reserved.

ARTICLE IV. SPECIFICATIONS

Sec. 6-525. Maximum practicable competition.

All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage competition in satisfying the city's needs, and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications, including, but not limited to, those prepared for the city by architects, engineers, designers and draftsmen.

(Code 1994, § 4.20.280; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-526. Brand name or equal specification.

(a) *Use*. Brand name or equal specifications may be used when the purchasing official determines in writing that:

(1) No other design or performance specification or qualified products list is available;

(2) Time does not permit the preparation of another form of purchase description, not including a brand name specification;

(3) The nature of the product or the nature of the city's requirements makes use of a brand name or equal specification suitable for the procurement; or

(4) Use of a brand name or equal specification is in the city's best interests.

(b) *Designation of several brand names.* Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.

(Code 1994, § 4.20.300; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Secs. 6-527--6-558. Reserved.

~~ARTICLE V. RESERVED~~

ARTICLE V. DEBARMENT OR SUSPENSION

Sec. 6-559. Authority to debar or suspend.

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the purchasing official, after consulting with the city manager and the city attorney, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. After consultation with the city manager and the city attorney, the purchasing official is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall be for a period not to exceed six months. The causes for debarment include:

(1) Conviction within the last five years for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(2) Conviction within the last five years under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a city contractor;

(3) Conviction within the last five years under state or federal antitrust statutes arising out of the submission of bids or proposals;

(4) Violation of contract provisions within the last five years, as set forth below, of a character which is regarded by the purchasing official to be so serious as to justify debarment or suspension action:

a. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract, or

b. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;

(5) Any other cause the purchasing official determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any cause listed in this chapter; and

(6) For violation of the ethical standards set forth in section 6-628 through and including section 6-636.

(7) Default on the payment of taxes, licenses or other monies lawfully due the city.

(Code 1994, § 4.20.380; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-560. Decision to debar or suspend.

The purchasing official shall issue a written decision to debar or suspend. The decision shall state the reasons

for the action taken and inform the debarred or suspended person involved of its rights concerning judicial or administrative review.

(Code 1994, § 4.20.390; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-561. Notice of decision.

A copy of the decision required by section 6-560 shall be mailed or otherwise furnished immediately to the debarred or suspended person.

(Code 1994, § 4.20.400; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-562. Finality of decision.

A decision under section 6-560 shall be final and conclusive, unless fraudulent or the debarred or suspended person within ten days after receipt of the decision takes an appeal to the city manager in writing, specifying all grounds or error alleged in the decision, or commences a timely action in court in accordance with applicable law.

(Code 1994, § 4.20.410; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Secs. 6-563--6-592. Reserved.

ARTICLE VI. APPEALS AND REMEDIES

Sec. 6-593. Bid protests.

(a) *Right to protest*. Any actual or prospective bidder, offeror or contractor who is aggrieved in connection with the solicitation or award of a contract must protest in writing to the city manager, or his designee, as a prerequisite to seeking judicial relief. Protestors must seek informal resolution of their complaints initially with the purchasing official. A protest shall be submitted within ten calendar days after such aggrieved person knows or should have known of the facts giving rise thereto. A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the opening of bids or the closing date of proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protests prior to bid opening or the closing date for proposals.

(b) *Stay of procurements during protests*. In the event of a timely protest under subsection (a) of this section, the purchasing official shall not proceed further with the solicitation or award of the contract until all administrative and judicial remedies have been exhausted or until the city manager makes a written determination on the record that the award of a contract without delay is necessary to protect substantial interest of the city.

(Code 1994, § 4.20.440; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-594. Contract claims.

(a) *Decision of the purchasing official*. All claims by a contractor against the city relating to a contract (except as provided in the contract at issue), except bid protests, shall be submitted in writing to the purchasing official for a decision. The contractor may request a conference with the purchasing official on the claim. Claims include, without limitation, disputes arising under a contract and those based upon breach of contract, mistake, misrepresentation or other cause for contract modification or revision.

(b) *Notice to the contractor of the purchasing official's decision*. After consultation with the city attorney, the purchasing official shall promptly issue a decision in writing, which decision shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached and shall inform the contractor of its appeal rights under subsection (c) of this section.

(c) *Finality of purchasing official's decision; contractor's right to appeal*. The purchasing official's decision shall be final and conclusive unless, within 30 calendar days from the date of receipt of the decision, the contractor mails or otherwise delivers a written appeal to the city manager, or his designee, or commences an action in a court of competent jurisdiction.

(d) *Failure to render timely decision*. If the purchasing official does not issue a written decision regarding any contract controversy within 30 days after written request for a final decision or within such longer period as may be agreed upon between the parties, then the aggrieved party may proceed as if an adverse decision had been

received.

(Code 1994, § 4.20.450; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-595. Access to administrative forums.

In the event that the contractor submits an appeal to the city manager, or his designee, shall review the claim, including the written appeal of the contractor and the decision of the purchasing official, and within 30 calendar days from the date of receipt of the appeal shall mail or otherwise deliver a written decision to the contractor, which decision shall constitute the final position of the city with respect to the contract claim. The city manager's, or his designee's, decision shall be final and conclusive unless, within 30 calendar days from date of receipt of the decision, the contractor commences an action in a court of competent jurisdiction.

(Code 1994, § 4.20.460; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-596. Settling bid protests and contract claims.

The purchasing official, after consultation with the city attorney, is authorized to settle any protest regarding the solicitation or award of a city contract or any claim arising out of the performance of a city contract, prior to an appeal to the city manager or the commencement of an action in a court of competent jurisdiction.

(Code 1994, § 4.20.470; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-597. Remedies for solicitations or awards in violation of law.

(a) *Prior to bid opening or closing date for receipt of proposals.* If prior to the bid opening or the closing date for receipt of proposals, the purchasing official, after consultation with the city attorney, determines that a solicitation is in violation of federal, state or municipal law, then the solicitation shall be cancelled or revised to comply with applicable law.

(b) *Prior to award*. If after bid opening or the closing date for receipt of proposals, the purchasing official, after consultation with the city attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state or municipal law, then the solicitation or proposed award shall be cancelled.

(c) *After award*. If, after an award, the purchasing official, after consultation with the city attorney, determines that a solicitation or award of a contract was in violation of applicable law, then:

(1) If the person awarded the contract has not acted fraudulently or in bad faith:

a. The contract may be ratified and affirmed, provided that it is determined that doing so is in the best interests of the city; or

b. The contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, plus a reasonable profit, prior to the termination; or

(2) If the person awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void or voidable, if such action is in the best interests of the city.

(Code 1994, § 4.20.480; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Secs. 6-598--6-627. Reserved.

ARTICLE VII. ETHICS IN PUBLIC CONTRACTING

Sec. 6-628. Criminal penalties.

To the extent that violations of the ethical standards of conduct set forth in this article constitute violations of the Colorado Revised Statutes, as amended, they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this section. Criminal, civil and administrative sanctions against employees or nonemployees which are in existence on the effective date of the ordinance from which this chapter is derived shall not be impaired.

(Code 1994, § 4.20.510; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-629. Employee conflict of interest.

(a) It shall be unethical for any city employee to participate directly or indirectly in a procurement contract when the city employee knows that:

(1) The city employee or any member of the city employee's immediate family has a financial interest pertaining to the procurement contract; or

(2) Any other person, business or organization with whom the city employee or any member of a city employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

(b) A city employee or any member of a city employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

(Code 1994, § 4.20.520; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-630. Gratuities and kickbacks.

(a) *Gratuities*. It shall be unethical for any person to offer, give or agree to give any city employee or former city employee, or for any city employee or former city employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

(b) *Kickbacks*. It shall be unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(Code 1994, § 4.20.530; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-631. Prohibition against contingent fees.

It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a city contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

(Code 1994, § 4.20.540; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-632. Contemporaneous employment prohibited.

In addition to those prohibitions set forth in the city employee ethics code, a city employee who is participating directly or indirectly in the procurement process is prohibited from becoming, while a city employee, employed by any person contracting with the city.

(Code 1994, § 4.20.550; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-633. Waivers for conflicts of interest.

(a) Any business or employee may request the city manager to grant a waiver from the employee conflict of interest provisions in section 6-629 or the contemporaneous employment provision in section 6-632. Such waiver may be for a specific transaction or for continual contract procurement purposes. Prior to granting any such waiver, the city manager shall make a written determination that:

(1) The contemporaneous employment or financial interest of the city employee has been publicly disclosed;

(2) The city employee will be able to perform his procurement functions without actual or apparent bias or favoritism; and

(3) The waiver will be in the best interest of the city.

(b) The purchasing official shall ensure that the provision of the ethics in the public contracting provision

are complied with in making a request for proposals or accepting any bids for any supplies, services or construction.

(Code 1994, § 4.20.560; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-634. Use of confidential information.

It shall be unethical for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person.

(Code 1994, § 4.20.570; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-635. Sanctions.

(a) *Employees*. The employee's supervisor may impose discipline against a city employee for violations of the ethical standards in this section as provided in the employee handbook.

(b) *Nonemployees*. The city manager, or his designee, may impose any one or more of the following sanctions on a nonemployee for violations of the ethical standards:

(1) Written warnings or reprimands;

(2) Termination of contracts; or

(3) Debarment or suspension as provided in section 6-559.

(Code 1994, § 4.20.580; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Sec. 6-636. Recovery of value transferred or received in breach of ethical standards.

(a) *General provisions*. The value of anything transferred or received in breach of the ethical standards of this chapter by a city employee or a nonemployee may be recovered from both city employee and nonemployee.

(b) *Recovery of kickbacks by the city*. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the city and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

(Code 1994, § 4.20.590; Ord. No. 17, 2018 , § 1(exh. A, B), 4-3-2018)

Secs. 6-637--6-660. Reserved.

CHAPTER 7. EQUIPMENT MAINTENANCE FUND

Sec. 6-661. Fund established; use of monies.

There is created and established a special fund to be known as the Equipment Maintenance Fund. All monies accumulated in the fund shall be used exclusively for the maintenance and replacement of equipment assigned to the equipment pool and construction, repair and maintenance of garage facilities. The monies may be used separately for such purposes or jointly with other monies that may be subsequently budgeted or earmarked for such purposes.

(Prior Code, §2-63(d)(2); Code 1994, § 4.28.010)

Secs. 6-662--6-680. Reserved.

CHAPTER 8. CEMETERY ENDOWMENT FUND

Sec. 6-681. Funds established; revenues.

(a) There is created and established a special fund, to be known as the Cemetery Endowment Fund, in which shall be deposited all funds heretofore granted, bequeathed or devised to the city in trust for the preservation of lots in Linn Grove Cemetery or which may be hereafter granted, bequeathed or devised for such purposes.

(b) Balances in the Cemetery Endowment Fund equal to three percent of total city spending in any given fiscal year may be reserved for emergencies of the city. Emergencies for the purpose of expenditures from the

emergency reserve do not include economic conditions, revenue shortfalls or salary and fringe benefit increases. All funds invested in the emergency reserve shall be so invested to meet all legal deadlines for such investments.

(c) Any balances of the Cemetery Endowment Fund used for an emergency of the city shall be repaid in full by other revenues or reserves of the city prior to the end of the fiscal year.

(d) Interest earnings on any investments of the Cemetery Endowment Fund reserved for emergencies shall be accounted for in accordance with section 6-682.

(Prior Code, § 8-1.1; Code 1994, § 4.40.010; Ord. No. 100, 1992, § 1, 12-22-1992)

Sec. 6-682. Purpose of earned income.

Investment earnings on the Cemetery Endowment Fund shall be transferred each year to the Cemetery Fund to the extent necessary to fund operations of the Linn Grove Cemetery up to a maximum of 100 percent of the earnings for the current fiscal year.

(Prior Code, § 8-1.3; Code 1994, § 4.40.030; Ord. No. 62, 1987, § 2, 12-22-1987)

Secs. 6-683--6-707. Reserved.

CHAPTER 9. CEMETERY FUND

Sec. 6-708. Cemetery fund established.

There is created and established a special fund to be known as the Cemetery Fund, in which shall be deposited one hundred percent (100 percent) of the revenues derived from the operation of Linn Grove Cemetery and which shall be used to fund current operations of the cemetery.

(Prior Code, § 8-1.2; Code 1994, § 4.40.020; Ord. No. 12, 1982, § 2, 3-16-1982; Ord. No. 62, 1987, § 1, 12-22-1987)

Secs. 6-709--6-729. Reserved.

CHAPTER 10. SENIOR CENTER CLUB FUND

Sec. 6-730. Fund established; revenues.

There is created and established a special fund, to be known as the Senior Center Club Fund, in which shall be deposited 100 percent of all funds and revenues, heretofore granted, bequeathed, devised, donated or raised by the ~~following~~ senior center clubs as defined in section 6-732, which may be hereafter used to fund all permitted endeavors approved by the clubs for the purpose of enhancing the endeavors of these clubs.

(Code 1994, §§ 4.42.010, 4.42.020; Ord. No. 35, 1991, § 1(part), 8-20-1991)

~~**Sec. 4.42.020. Revenues deposited.**~~

~~There is created and established a special fund, to be known as the Senior Center Club Fund, in which shall be deposited one hundred percent (100 percent) of all Senior Center club revenues, as defined in section 4.42.040. The fund shall be used to fund all permitted endeavors approved by the clubs.~~

~~(Code 1994, § 4.42.020; Ord. 35, 1991 §1(part), 8-20-1991)~~

Sec. 6-731. Earned income; retention; purpose.

Investment earnings on the Senior Center Club Fund shall be transferred each year to the fund for future distribution to said clubs.

(Code 1994, § 4.42.030; Ord. No. 35, 1991, § 1(part), 8-20-1991)

Sec. 6-732. Senior center clubs defined.

The following clubs are defined as senior center clubs for the purposes of this chapter:

(1) Pool club;

(2) Senior citizens club;

(3) Shuffleboard club;

(4) Sunshine band;

(5) Dance club;

(6) Softball team;

(7) Meadowlark square dancers;

(8) Keenage singers;

(9) Greeley Retiree Academic Study Program.

(Code 1994, § 4.42.040; Ord. No. 35, 1991, § 1(part), 8-20-1991; Ord. No. 18, 2000, § 1, 6-6-2000)

Sec. 6-733. Distribution of funds.

Funds deposited in the Senior Center Club Fund shall only be distributed for senior center club approved purposes, as defined under the bylaws of each senior center club. Senior Center Club Funds shall not be expended without the authorization of the appropriate senior center club under the procedures outlined by each club's bylaws. Separate accounting shall be kept of each club's revenues, interest and expenditures. Transfers of funds between the various clubs without permission of all the clubs involved is strictly prohibited. The city council shall not have the authority to expend funds from the Senior Center Club Fund for the purposes other than those specifically authorized by the various clubs.

(Code 1994, § 4.42.050; Ord. No. 35, 1991, § 1(part), 8-20-1991)

Secs. 6-734--6-764. Reserved.

CHAPTER 11. SOFTBALL IMPROVEMENT FUND

Sec. 6-765. Established; purpose.

A fund to be known as the Softball Improvement Fund is herein established for the purpose of maintaining and improving the facilities used for the city adult softball programs.

(Code 1994, § 4.48.010; Ord. No. 19, 1982, § 1, 4-20-1982)

Secs. 6-766--6-783. Reserved.

CHAPTER 12. BUSINESS DEVELOPMENT INCENTIVE PLAN

ARTICLE I. GENERALLY

Sec. 6-784. Legislative findings.

(a) An economic development incentive plan is established to encourage the location of new businesses and the expansion of existing businesses within the city. This will stimulate the general economic well-being of the city, providing the foundation of the tax base required for the provision of city services and the direct general public welfare by benefiting every public and private sector through the generation of employment opportunities with the attendant increase of disposable income. The policy provides for five incentive categories:

(1) Those associated with one-time building permit and sales and use tax;

(2) Those associated with a longer term personal property tax rebate;

(3) Those associated with the Greeley/Weld Enterprise Zone;

(4) Those associated with the location of new employees within the city; and

(5) Those associated with the construction of core and shell buildings, to provide speculative development.

(b) All decisions to grant incentives to any business or employee are at the sole discretion of the city council, on a case-by-case basis.

(c) If granted by the city pursuant to this chapter, incentives shall be available as follows:

(1) To businesses in the calendar year in which the business has completed construction or expansion, if such construction or expansion meets the criteria, exclusions and definitions established in article II of this chapter.

(2) Employee relocation payments, in accordance with the requirements of article VI of this chapter.

(d) All incentives granted by the city shall be enforced upon the execution of a written agreement between both parties.

(Code 1994, § 4.52.010; Ord. No. 17, 2011, § 1, 7-5-2011; Ord. No. 31, 2018, § 2, 7-17-2018)

Secs. 6-785--6-806. Reserved.

ARTICLE II. GENERAL REQUIREMENTS FOR CONSIDERATION OF INCENTIVE

Sec. 6-807. Qualifications and definitions.

(a) The incentives described below may, on a case-by-case basis, be available to any new or expanding manufacturing, processing, distribution, research and development, aerospace, conventional energy, renewable energy, or computer system/software product support or technical service business, as defined in subsection (b) of this section, which meets the following qualifying criteria:

(1) Eligible new or expanding business shall not include any corporate reorganization, sale of an existing business or resumption of business activities unless such business has been closed for at least the previous 24 months.

(2) Eligible new or expanding business shall derive more than 50 percent of its income from manufacturing, processing, distribution, research and development, aerospace, conventional energy, renewable energy, or computer system/software product or technical service activities and may not derive 25 percent or more of its gross income during any 12-month period from direct retail sales.

(3) Eligible new or expanding business shall invest a minimum of $500,000.00 in a new or replacement plant and/or equipment/machinery during the calendar year in which application is made for incentives.

(4) For development fee waiver, the additional employment level shall be determined by comparing projected employment totals with the firm's previous three years' annual average employment within the city.

(b) The following definitions shall apply in determining the eligibility of companies to qualify for the economic development incentives plan. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Aerospace means a business or industry engaged in the science and/or technology of flight and/or space travel that researches, designs, manufactures, operates, or maintains instruments, components or vehicles relating to the earth's atmosphere and its space beyond.

Buildable lot means real property that is platted, zoned, served by public utilities, and designed to support industrial development, including, but not limited to, industrial buildings, warehouses, and office space associated with manufacturing, agricultural processing, warehousing, distributing, and wholesaling sectors. As applied in this chapter, the term "buildable lot" excludes any property that has been approved for residential, retail, and general business offices uses.

Computer system/software product support or *technical service business* means a business engaged in providing technical service to users of computer systems or software products manufactured or created by the company or other companies.

Conventional energy means a petroleum industry's regional business office, research and development office or field operations service facility specializing in the exploration and extraction, recovery, and/or production of petroleum, petroleum-based or natural gas energy resources.

Core and shell means construction of basic elements of a building, including primary structure, building roof and facade, "vanilla box," mechanical and supply system including, as applicable, electricity, gas, HVAC,

telephone, drainage up to the point of contact with individual tenant spaces, public circulation, and fire egress areas.

Development impact fees means fees for public improvements, facilities and equipment for police, fire, parks, trails, storm drainage and transportation; includes plant investments fees, in conformance with chapter 14 of this title 6.

Distribution means the temporary storage of tangible personal property for later dissemination.

Existing sales and use tax rebate means city sales tax imposed under the Code on construction materials, fixed equipment and machinery installation, facilities lease, equipment and machinery, research equipment, and computer hardware.

Full-time employee means an employee of the firm who is expected in the normal course of employment to provide at least 2,080 hours of compensated service during any consecutive 12-month period, who earns an annual gross income from such compensated service equal to or above the county's annual average wage for all industries according to the state department of labor's most recent annual industry standards and who has an employee health plan that is paid a minimum of 50 percent by the employer.

Machinery and equipment means those articles of tangible machinery personal property exclusively used in the industrial manufacturing process, research and development or computer hardware not used for word processing.

Manufacturing or *processing* means the operation of producing, in an industrial use, an item of tangible personal property different from and having a distinctive name, character or use from raw or prepared materials.

Renewable energy means a nonpetroleum based industry's regional business office, research and development, or renewable energy production facility specializing in the research, development, design, manufacturing, operation or maintenance of wind, solar, biomass, bio-fuel, hydro, geothermal technologies or other nonpetroleum based energy sources.

Research and development means those activities directly related to the development of an experimental or pilot model, a plant process, a product, a formula, an invention or similar property and the improvement of already existing property of the type mentioned. The term "research and development" shall not include ordinary testing or inspection of materials or products for quality control or those for efficiency surveys, management studies, consumer surveys, advertising, promotions or research related to literary, historical or similar projects.

Speculative development means the completion of a building's core and shell (base of building without interior finishes).

Tenant finish means interior construction and finishes that are designed for a particular/specific user.

(Code 1994, § 4.52.020; Ord. No. 17, 2011, § 1, 7-5-2011; Ord. No. 31, 2018, § 3, 7-17-2018)

Sec. 6-808. Determination of incentive or relocation payment discretionary.

The determination as to whether or not to pay, waive or rebate to a business or qualifying employee any cash, fees or taxes stated in this chapter is wholly discretionary on the part of the city council, on a case-by-case basis, only if the city manager has first considered, evaluated and individually weighed the following criteria to the request and determined that the proposed incentives are in the best interests of the city:

(1) The degree to which the proposed waiver, rebate or payment is needed or desired to facilitate a new business or new jobs of a business;

(2) The degree of revenue enhancement potential to the city;

(3) The potential impact and benefits of the business and its additional employees to the established community plans, master plan and city council policies and goals;

(4) The extent that the waiver, rebate or payment will result in a revenue enhancement which has already been previously anticipated and reflected in the annual budget, in which case the payment may be denied to avoid unanticipated budgetary impacts; and

(5) The extent that the business and its additional employees has impacted or may impact the city, including health, safety and welfare concerns.

(Code 1994, § 4.52.030; Ord. No. 17, 2011, § 1, 7-5-2011; Ord. No. 20, 2016 , § 1(exh. A), 9-6-2016)

Sec. 6-809. Precedents.

Any decision concerning a specific incentive shall not set any precedent for future incentive.

(Code 1994, § 4.52.040; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-810. Policy void; when.

This policy shall be void if a state constitutional or home rule Charter provision limiting the property taxes collected or revenues collected by the city is passed by the voters from, or if the authority for exclusion from property tax limits is held unconstitutional or invalid by a court of competent jurisdiction.

(Code 1994, § 4.52.050; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-811. Repayment for failure to perform.

If the business received the incentive payment and fails to perform or accomplish the terms and conditions of the city's incentive agreement in accordance with the time set forth, at the city's option, the business shall be liable on a pro-rata basis, to repay the awarded incentives. The substance of this article shall be added to all written incentive agreements.

(Code 1994, § 4.52.060; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-812. Documentation required.

Businesses or employees wishing to apply for the benefits of the economic development incentive plan shall submit to the city manager or city manager's designee all documentation necessary for determination of qualification for the plan. Failure to submit adequate documentation to determine eligibility shall disqualify the business. Application for determination must occur within the period identified in subsection 6-784(c).

(Code 1994, § 4.52.070; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-813. Appeal.

All appeals of the decision of city council to grant or deny any incentives identified in this chapter 12 of this title shall be appealed to the county district court within 30 days of city council's decision.

(Code 1994, § 4.52.080; Ord. No. 17, 2011, § 1, 7-5-2011)

Secs. 6-814--6-834. Reserved.

ARTICLE III. BUILDING PERMIT FEES AND SALES AND USE TAXES

Sec. 6-835. Waiver of city building permit fees and city sales and use tax.

Waiver of city building permit fees and city sales and use tax may, on a case-by-case basis, be available as provided in this article.

(Code 1994, § 4.52.090; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-836. Waiver of fees.

(a) For qualifying businesses, city building permit fees may, on a case-by-case basis, be waived as follows:

(1) At a rate of $500.00 per new full-time employee job created; or

(2) In an amount determined by the city council.

In no event shall the amount of fees waived exceed the total of required fees.

(b) The following fees shall not be waived under subsection (a) of this section: water and sewer plant investment fees, drainage fees, police fees, fire fees and street construction fees.

(Code 1994, § 4.52.100; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-837. Waiver of taxes.

City sales and use taxes for qualifying businesses in good standing may, on a case-by-case basis, be waived,

in whole or in part, for the period of construction or expansion only, as follows:

(1) Sales and use taxes on construction materials, fixed equipment and machinery installation, or facilities lease:

a. Sales and use taxes on the first $500,000.00 may be 100 percent waived.

b. Sales and use taxes on amounts in excess of $500,000.00 may be waived in the amount equal to the sales and use tax due on the first $500,000.00 invested, plus one percent per $100,000.00, including the first $500,000.00, to a maximum of 100 percent waiver when the amount of material costs or lease reaches or exceeds $10,000,000.00.

(2) Sales and use taxes on equipment and machinery, research equipment and computer hardware not used for word processing when the business investment for such equipment reaches a minimum of $100,000.00:

a. Sales and use taxes on the first $500,000.00 may be 100 percent waived.

b. Sales and use taxes on amounts in excess of $500,000.00 may be waived in the amount equal to the sales and use tax due on the first $500,000.00 invested plus one percent per $100,000.00, including the first $500,000.00, to a maximum of 100 percent waiver when the amount of equipment and machinery reaches or exceeds $10,000,000.00.

(Code 1994, § 4.52.110; Ord. No. 17, 2011, § 1, 7-5-2011; Ord. No. 20, 2016 , § 1(exh. A), 9-6-2016)

Secs. 6-838--6-867. Reserved.

ARTICLE IV. PERSONAL PROPERTY TAXES

Sec. 6-868. Personal property tax rebate.

Personal property tax rebate may, on a case-by-case basis, be available as provided in this article.

(Code 1994, § 4.52.120; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-869. Personal property tax rebate payment negotiations.

Personal property tax rebate payments may be negotiated with qualifying new business facilities or expanded business facilities, including ~~basic~~ primary industries.

(Code 1994, § 4.52.130; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-870. ~~Basic~~ Primary industry defined.

The term ~~Basic~~ "primary industry" means an industrial sector business which directly or indirectly exports some or all of its products and/or services for use and/or consumption to outside of the city.

(Code 1994, § 4.52.140; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-871. Qualified ~~basic~~ primary industry requirements.

Personal property tax rebate incentive payments may, on a case-by-case basis, be available to any qualifying new or expanding businesses which are ~~Basic~~ primary industries which create primary jobs and import dollars into the community and which also meet the following criteria:

(1) Eligible new or expanding ~~Basic~~ primary industry businesses shall not include any corporate reorganization, sale of an existing business or resumption of business activities unless new investment is created.

(2) Eligible new or expanding ~~Basic~~ primary industry businesses shall derive at least 50 percent of their principal source of gross annual income from the sale of products or services consumed outside of the city either directly or indirectly. The intent of these criteria is to assist firms engaged in manufacturing, processing, research and development and provision of externally directed services; e.g., insurance claims.

(3) Eligible new or expanding ~~Basic~~ primary industry businesses shall not derive more than 25 percent of

their gross annual income from direct retail sales.

(Code 1994, § 4.52.150; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-872. Minimum investment for personal property tax rebate incentives.

Eligible new or expanding businesses shall invest a minimum of one million dollars ($1,000,000.00) in a new business facility or expanded business facility, as these terms are referenced in C.R.S. § 39-30-107.5, during the calendar year in which application is made for the personal property tax rebate incentive payment.

(Code 1994, § 4.52.160; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-873. Notification of negotiated written agreements for personal property tax rebates.

The city will notify the county of any negotiated written agreements for city-granted personal property tax rebates with new, expanded and ~~Basic~~ primary industry businesses facilities.

(Code 1994, § 4.52.170; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-874. Term of agreement for personal property tax rebate.

The term of the written agreement for personal tax rebates granted pursuant to this chapter shall not exceed ten years and is subject to revenue availability and annual appropriations.

(Code 1994, § 4.52.180; Ord. No. 17, 2011, § 1, 7-5-2011)

Sec. 6-875. Maximum personal property tax rebate amount.

The annual personal property tax rebate payment pursuant to this chapter shall not be greater than 50 percent of the amount of the taxes levied by the city upon the taxable personal property located at or within such new business facilities or directly attributable to the expansion of existing business facilities, and used in connection with such facilities for the current property tax year.

(Code 1994, § 4.52.190; Ord. No. 17, 2011, § 1, 7-5-2011)

Secs. 6-876--6-898. Reserved.

ARTICLE V. GREELEY/WELD ENTERPRISE ZONE INCENTIVES

Sec. 6-899. Greeley/Weld enterprise zone personal and real property tax incentives.

Notwithstanding anything in this chapter to the contrary, the city may, on a case-by-case basis, make available to a qualifying business facility meeting the requirements of C.R.S. § 39-30-107.5, some or all of personal and real property tax incentives allowed pursuant to C.R.S. § 39-30-107.5.

(Code 1994, § 4.52.200; Ord. No. 17, 2011, § 1, 7-5-2011)

Secs. 6-900--6-916. Reserved.

ARTICLE VI. EMPLOYEE RELOCATION PAYMENT

Sec. 6-917. Business relocation payment for new, additional employees.

(a) Notwithstanding anything in this chapter to the contrary, and in addition to the payments and incentives stated in this section, the city may, on a case-by-case basis, pay to either, but not both, a business or a qualifying employee up to a maximum one-time, $2,000.00 payment for each qualifying employee who relocates his principal personal residence from outside to inside the city limits by purchasing residential real property within the city and maintaining that residential real property as the qualifying employee's principal personal residence, as provided in this section.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Business means any new, existing or expanding business enterprise of any nature or kind which has its principal place of business located within the jurisdictional limits of the city.

Employee and *qualifying employee* means an additional employee of the business:

(1) That is employed by the business so that it increases the number of employees of the business from its previous employee level of the preceding 12-month period;

(2) That is continuously employed by the business for the preceding 12-month period prior to the time the business claims the relocation payment;

(3) Whose gross annual salary, exclusive of all benefits, is equal to or exceeds 125 percent of the most recent annualized county average wage (WCAW) in effect at the time the employee establishes his principal personal residence in the city; and

(4) Where the business pays at least 50 percent of the health insurance premium of the employee.

Primary personal residence means the fee ownership purchase of residential real estate property located within the city in the employee's own name and continuously held and occupied by that employee as the employee's principal residence at that residential property for the preceding 12-month period of the calendar year in which the business claims the relocation payment.

(c) On a case-by-case basis, the city may pay, subject to determination by the city council using the criteria stated in ~~section 4.52.155 below~~ subsection (d) of this section, and subject to appropriation of sufficient funds, up to $2,000.00, to either, but not both, a business for each qualifying employee or a qualifying employee of that business who relocates his primary personal residence from outside to inside the city limits.

(d) The relocation payment schedule for businesses that are granted the business relocation payment for qualifying employees, as determined by the city manager, for each qualifying employee is as follows:

Gross Annual Salary	*Cash Payment*
125 percent of WCAW*	$500.00
150 percent of WCAW*	$750.00
175 percent of WCAW*	$1,000.00
200 percent of WCAW*	$1,250.00
225 percent of WCAW*	$1,500.00
250 percent of WCAW*	$2,000.00

*Weld County Average Wage (WCAW) for all industries shall be determined and modified on an annual basis.

(e) In order to apply for this business relocation payment from the city for qualifying employees, each business or qualifying employee shall provide the city the following documentation:

(1) A recorded copy of the deed conveying good title to the qualifying employee;

(2) A copy of the county treasurer's report showing the qualifying employee as owner of the property and that all property taxes are current and not delinquent;

(3) An affidavit of the qualifying employee that the qualifying employee has established his principal personal residence within the city for the preceding 12-month period prior to the application for payment; and

(4) An affidavit of the business that the qualifying employee was continuously employed by the business during the preceding 12-month period, including all W-2 forms showing the employee's gross annual salary, excluding benefits, and a copy of records showing the business's contribution to the employee's health insurance premiums;

All one-time relocation payments are based upon a 12-month period in which the qualifying employee's residence is established. All relocation payments are a one-time payment for each qualifying employee who relocates to the city, pursuant to the provisions of this section. Any payment by the city will be made only once for each qualifying employee relocating his principal personal residence to the city and shall not be made in any future years, regardless

of any relocation of the principal personal residence of that qualifying employee outside or inside the city. Each payment to either the business or qualifying employee shall be based upon the preceding 12-month period prior to application for the payment and shall not be made based upon any calendar or fiscal year or other time frame. If the application is approved, within 60 days after approval, the city shall make the payment to either the business or the qualifying employee after the receipt of all sufficient documentation required by this section.

(Code 1994, § 4.52.210; Ord. No. 17, 2011, § 1, 7-5-2011; Ord. No. 20, 2016 , § 1(exh. A), 9-6-2016)

Sec. 6-918. Incentives for speculative development.

(a) Notwithstanding anything in this chapter to the contrary, and in addition to the payments and incentives stated in this chapter, the city may, on a case-by-case basis, provide economic incentives to those businesses that complete core and shell building that complies with the terms of this article. In making this determination, the city may reasonably rely on industrial and real estate market data, to determine whether, and to what extent. the city's existing inventory of vacant industrial space is available for the qualifying businesses as defined in section 6-807, including, but not limited to, low vacancy rates and/or functional obsolescence of the available industrial space.

(b) Property tax rebate.

(1) An owner of a speculative building may obtain a rebate of up to 100 percent of its property tax for a two-year assessment period for investments of $500,000.00 or more.

(2) The owner of the speculative building may apply for a two-year extension of the tax rebate incentive. Based upon market conditions and the individual building's past performance, the city may in its discretion grant the two-year extension.

(c) Existing development incentive of sales and use tax rebate. An owner of a speculative building who has invested $1,000,000.00 or more in a core and shell may be considered for an existing sales and use tax rebate, in the same amounts and at the same rate as set forth in section 6-837.

(d) Impact fee deferment.

(1) An owner of a speculative building who has invested $1,500,000.00 or more in a core and shell may be considered for deferment of all impact fees until issuance of a certificate of occupancy to a tenant in any of the qualifying businesses as defined in section 6-807.

(2) An owner who has been granted such a deferment may be considered for an extension of the deferment. Based upon market conditions and the individual building's past performance, the city may in its discretion grant the two-year extension.

(3) Any deferment of impact fees under this section will terminate upon evidence that any of the leasable square footage in the speculative building is occupied by businesses that fall outside of the description of qualifying businesses under section 6-807.

(Ord. No. 31, 2018, § 4, 7-17-2018)

Secs. 6-919--6-939. Reserved.

CHAPTER 13. FISCAL RESERVE ACCOUNTS

Sec. 6-940. Fiscal reserve accounts established.

There are created and established fiscal reserve accounts, either one or more, in which shall be deposited all current fiscal year revenues in excess of current year expenditures.

(Code 1994, § 4.54.010; Ord. No. 101, 1992, § 1(part), 12-22-1992)

Sec. 6-941. Allocation of funds.

All current fiscal year revenues in excess of current year expenditures are hereby allocated, at each fiscal year end, to appropriate fiscal reserve accounts, in amounts and types to be determined by the director of finance, subject to applicable law. All stated revenues shall be appropriated and/or transferred to reserve accounts on or before December 31 of every fiscal year.

(Code 1994, § 4.54.020; Ord. No. 101, 1992, § 1(part), 12-22-1992)

Sec. 6-942. Transferability.

Nothing in this section shall prevent the director of finance or his designee from transferring any partial or whole fiscal reserve account balance to any other account within the city, subject to applicable law.

(Code 1994, § 4.54.030; Ord. No. 101, 1992, § 1(part), 12-22-1992)

Sec. 6-943. Accounting.

It shall be the responsibility of the director of finance to account for each and every appropriation and/or transfer of all fiscal year revenues and/or expenditures placed, transferred or expended from each and every fiscal reserve account established under this chapter.

(Code 1994, § 4.54.040; Ord. No. 101, 1992, § 1(part), 12-22-1992)

Secs. 6-944--6-974. Reserved.

CHAPTER 14. FINANCIAL SECURITY

Sec. 6-975. Financial security required.

In any instance in which public or private improvements are required to be made, any license to be issued, any permit to be issued or other approval requiring financial expenditure by a person, pursuant to any rule, regulation, ordinance, assessment, authorization or agreement with the city, a person may provide, in lieu of timely completion of such required improvements, the city with adequate financial guarantee for completion of the same. Financial guarantees shall be in acceptable form and substance in accordance with the provisions of this chapter.

(Code 1994, § 4.58.010; Ord. No. 34, 1996, § 1(part), 7-2-1996)

Sec. 6-976. Financial guarantee form and deposit.

The guarantee required by this chapter shall be in one of the following forms and shall be deposited prior to issuance of any permit, license, authorization or approval for any and all improvements, activities, occupations or agreements with the city, including payment of the appropriate administrative fees therefor, as follows:

(1) *Surety bond*. A surety bond deposited with the director of finance of the city in an amount specified by ordinance or not less than 125 percent of the cost of the improvement, contract or city agreement amount, whichever is less. Such bond shall be conditioned upon compliance with all conditions and requirements, and within the time and in the manner required by any rule, regulation, ordinance or resolution of the city.

(2) *Cash or collateral deposit*. A deposit of cash or other collateral, acceptable to the city, in an amount not less than 125 percent of the cost of the improvement, contract or city agreement amount, whichever is less, with the director of finance of the city, or with any bank or trust company in the state. Such deposit shall be subject to an escrow agreement whereby the holder of such cash or collateral shall pay all or any portion thereof, including any interest or other income earned thereon, to the city upon the demand of the director of finance, as may be required to comply with such conditions and requirements, and within the time and in the manner required by rule, regulation, ordinance or resolution of the city.

(3) *Line of credit*. An agreement between the city, the person affected and a financial institution, acceptable to the city in which the financial institution agrees to extend a line of credit to said person, which line of credit shall be in an amount specified by ordinance or not less than 125 percent of the cost of the improvement, contract or city agreement amount, whichever is less, required for completion and/or compliance, including compliance with any such conditions and requirements, and within the time and in the manner required by any rule, regulation, ordinance or resolution of the city council. Said agreement shall be in such form as may be required by the city and shall be accompanied by other documents, including, but not limited to, a letter of credit from the financial institution, as may be required by the city.

(4) *Irrevocable letter of credit*. An irrevocable letter of credit from a financial institution in the form acceptable to the city in an amount not less than 125 percent of the cost of the improvement, contract or city agreement amount, whichever is less, including compliance with any such conditions and

requirements, and within the time and in the manner required by any rule, regulation, ordinance or resolution of the city.

(5) *Interest*. All interest or other income earned on the cash or collateral deposited, as herein provided, shall be paid by the holder thereof to the depositor, until such time as the director of finance demands the same for the completion and compliance of such conditions and requirements of the city, after which time all interest or other income shall be paid to the city.

(6) *Approval by city attorney*. Surety bonds, collateral in lieu of cash, escrow agreements and letters of credit shall be reviewed as to form and sufficiency by the city attorney, if requested. Surety bonds shall be deemed sufficient if executed by a corporate surety licensed to do business in the state, and countersigned by a resident agent of such corporate surety.

(7) *Alternate guarantee approval*. In the event any person wishes to deposit or provide the city with financial security other than indicated in this section, the proposed financial security must be found to be legally sufficient by the city attorney and acceptable by the city manager for the purposes in which the financial guarantee is intended.

(Code 1994, § 4.58.020; Ord. No. 34, 1996, § 1(part), 7-2-1996)

Sec. 6-977. Cumulative effect.

The financial requirements of this chapter are in addition to and not in lieu of any other financial requirements and forms of guarantee, including, but not limited to, those contained within chapter 6 of this title.

(Code 1994, § 4.58.030; Ord. No. 34, 1996, § 1(part), 7-2-1996)

Secs. 6-978--6-997. Reserved.

CHAPTER 15. DEVELOPMENT IMPACT FEES FOR PUBLIC IMPROVEMENTS, FACILITIES AND EQUIPMENT FOR POLICE, FIRE, PARKS, TRAILS, STORM DRAINAGE AND TRANSPORTATION

Sec. 6-998. Legislative findings.

The city council finds that:

(1) The protection of the health, safety and general welfare of the citizens of the city requires that the city's improvements, facilities and equipment be expanded and improved to accommodate continuing growth within the city.

(2) New residential and nonresidential development imposes increasing demands upon existing city improvements, facilities and equipment and often overburdens those improvements, facilities and equipment.

(3) The tax revenues generated from new development do not generate sufficient funds to provide city facilities and equipment to serve the new development.

(4) New development is expected to continue and will place increasing demands on the city to provide services, facilities and equipment to serve new development.

(5) Development impact fees will enable the city to impose the proportionate share of the costs of required improvements, facilities and equipment on those new developments that create these new needs.

(6) All types of development that are not explicitly exempted from the provisions of this chapter will generate demand for improvements, facilities and equipment.

(7) The Development Impact Fee Study, prepared by Duncan Associates, dated December 2014 (hereinafter referred to as the Duncan Study), sets forth a reasonable methodology and analysis for determining the impact of various types of development on the city's improvements, facilities and equipment and for determining the cost of improvements, facilities and equipment necessary to meet the demands created by new development. The Duncan Study provides the basis for the police, fire, parks, trails, storm drainage and transportation impact fees.

(8) The Development Fee Study prepared by Red Oak Consulting, dated May 2007 (hereinafter referred to

as the Red Oak Study), sets forth a reasonable methodology and analysis for determining the impact of various types of development on the city's storm drainage facilities and for determining the cost of improvements, facilities and equipment necessary to meet the demands created by new development. The Red Oak Study provides the basis for the storm drainage fees.

(9) The development impact fees described in this chapter do not exceed the costs of providing additional improvements, facilities and equipment required to serve those new developments.

(10) The improvements, facilities and equipment will benefit new development in the city, and it is therefore appropriate to treat the entire city as a single service area for the purposes of calculating, collecting and spending the development fees.

(11) There is both a rational nexus and a rough proportionality between the development impacts created by each type of development covered by this chapter and the development impact fees that development will be required to pay.

(12) Except as described in subsection 6-1002(c) concerning optional independent fee calculation studies, the development fees created by this chapter are standardized fees to be applied uniformly within each specified class of development and are not discretionary fees to be determined on a case-by-case basis.

(13) The development fees paid in new developments shall be used to expand or improve the city's improvements, facilities and equipment in ways that benefit the development that paid each fee within a reasonable period of time after the fee is paid.

(14) The development fees created by this chapter shall not be used to cure deficiencies in existing improvements, facilities and equipment.

(Code 1994, § 4.64.010; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. No. 2, 2015, § 1(exh. A), 1-20-2015;)

Sec. 6-999. Authority; applicability; definitions.

(a) This chapter is enacted pursuant to the city's general police power as a home rule municipality, pursuant to the authority granted to the city by article XX of the state constitution, by the city Charter, by C.R.S. title 29, art. 20, entitled "Local Government Land Use Control Enabling Act," and by C.R.S. § 29-1-801, "Land Development Charges," et seq.

(b) The provisions of this chapter shall apply to all of the territory within the limits of the city.

(c) For the purposes of this chapter, the terms and phrases shall have the meanings provided in the Development Code, title 24, unless the context clearly indicates otherwise.

(Code 1994, § 4.64.020; Ord. No. 2, § 1(exh. A), 1-20-2015; Ord. No. 41, 2003, § 1, 6-3-2003)

Sec. 6-1000. Intent.

(a) The intent of this chapter is to ensure that new development bears its proportionate share of the cost of improvements, facilities and equipment, that such proportionate share does not exceed the cost of the improvements, facilities and equipment required to serve such new development, and that funds collected from new developments are used to construct and pay for the improvements, facilities and equipment that benefit such new developments.

(b) It is the further intent of this chapter that new development pay its proportionate share of improvements, facilities and equipment through the imposition of police, fire, parks, trail, storm drainage and transportation development impact fees to finance, defray or reimburse all or a portion of the costs incurred by the city to construct the improvements, facilities and equipment that serve or benefit such new development.

(c) It is the intent of this chapter to collect from new development that amount of money necessary to offset new demand for improvements, facilities and equipment generated by the new development.

(d) It is the intent of this chapter that monies collected as development fees and deposited in separate accounts for each fee never be commingled with monies from any other development fee fund and never be used for a type of facility or equipment different from that for which the fee was paid.

(e) This chapter is adopted to ensure that the city will have sufficient improvements, facilities and equipment

that are consistent with the improvements, facilities and equipment identified in the Duncan Study, dated December 2014 and the Red Oak Study, dated May 2007; and such other plans, policies, regulations and ordinances that are relevant and that have been approved by the city council.

(Code 1994, § 4.64.030; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. No. 2, 2015, § 1(exh. A), 1-20-2015;)

Sec. 6-1001. Imposition of development fees.

(a) Each development is required to pay the development impact fees in the amounts specified in this chapter.

(b) No building permits shall be issued until the development fees described in this chapter have been paid, unless the development for which the permit is sought is exempted by section 6-1011, approved credits are used to cover the development fees as set forth in section 6-1011, or the city and developer of the property have agreed to amounts determined pursuant to an independent fee calculation study agreed to by the city pursuant to subsection 6-1002(c).

(c) In constructing applicable improvements defined in the Development Code, title 24 of this Code, the city shall not be exempt from paying development impact fees. The city shall pay development impact fees in the amount determined pursuant to section 6-1002(b) or, as computed within the discretion of the city. section 6-1002(c) shall not apply to the city.

(Code 1994, § 4.64.040 Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 2, 2015, § 1(exh. A), 1-20-2015)

Sec. 6-1002. Computation of amount of development fee.

(a) An applicant required by this chapter to pay development impact fees may choose to have the amount of such fee determined pursuant to either subsection (b) or (c) of this section. Regardless of whether the applicant calculates the amount of the fee pursuant to subsection (b) or (c) of this section, such fee may be subject to the adjustment described in section 6-1013.

(b) Unless an applicant requests that the city determine the amount of such fee pursuant to subsection (c) of this section, the city shall determine the amount of the required development fees by reference to the fee schedule in this chapter.

(1) If the applicant's development is of a type not listed in the schedule, then the city shall use the fee applicable to the most nearly comparable type of land use in that schedule.

(2) If the applicant's development includes a mix of those uses listed in the fee schedules, then the fee shall be determined by adding up the fees that would be payable for each use if it was a freestanding use pursuant to the fee schedule.

(3) If the applicant is applying for a permit to allow a change of use, the expansion or modification of an existing nonresidential building by more than 1,000 square feet, or the redevelopment of an existing development, the fee shall be based on the net positive increase in the fee for the new use or structure as compared to the development fee, if any, that would have been due under this chapter for the previous use or structure, whether or not such fee was actually paid. In the event that the proposed change of use, expansion, redevelopment or modification results in a net decrease in the fee for the new use or development as compared to the previous use or development, there shall be no refund of development fees previously paid.

(c) An applicant may request that the city determine the amount of the required development fee by reference to an independent fee calculation study for the applicant's development prepared at the applicant's cost by qualified professionals, experts and/or economists and submitted to the city manager or his designee. Any such study shall be based on the same service standards, unit costs and criteria used in the Duncan Study and/or the Red Oak Study, whichever is applicable, and must document the economic methodologies and assumptions used. The city may hire a qualified professional or consultant to review any independent fee calculation study on behalf of the city and may charge the costs of such review to the applicant. Any independent fee calculation study submitted by an applicant may be accepted, rejected or accepted with modifications by the city as the basis for calculating the development fees. If such study is accepted or accepted with modifications as a more accurate measure of the demand for new

improvements facilities and equipment created by the applicant's proposed development than the applicable fee shown in the fee schedules, then the applicable development fees due under this chapter may be calculated according to such study.

(Code 1994, § 4.64.050; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. No. 2, 2015 § 1(exh. A), 1-20-2015)

Sec. 6-1003. Automatic annual inflation adjustment.

(a) The development impact fees shall be recalculated by the city manager, or his designee, on an annual basis, to reflect cost inflation experienced in the previous year, and the revised fee shall be effective on March 1 of each year. The revised fees will be adopted via city manager policy and shall be made available to the public approximately 120 days, or as soon as practical thereafter, before the March 1 effective date.

(b) The fees will be recalculated by applying the economic adjustment factor. The economic adjustment factor shall be calculated pursuant to the guidelines established in the economic adjustment factor for all transportation, parks, fire, police, trails and storm drainage fees.

(c) The economic adjustment factor method of revising all transportation, parks, fire, police, trails and storm drainage development impact fees will be in effect until such time as a new development fee study is completed and adopted.

(Code 1994, § 4.64.055; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. No. 39, 2011, § 1, 12-6-2011; Ord. No. 2, 2015 § 1(exh. A), 1-20-2015)

Sec. 6-1004. Police development fee schedule.

The police development fee schedule has been calculated pursuant to the Duncan Study and is set forth as follows:

Land Use Type	Unit	Fee
Single-family detached	Dwelling	$117.00
Multifamily	Dwelling	$88.00
Mobile home park	Site	$123.00
Retail/commercial	1,000 sq. ft.	$143.00
Office	1,000 sq. ft.	$67.00
Industrial	1,000 sq. ft.	$27.00
Warehouse	1,000 sq. ft.	$13.00
Public/institutional	1,000 sq. ft.	$51.00
Oil and gas well	Wellhead	$58.00

(Code 1994, § 4.64.060; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. No. 2, 2015 § 1(exh. A), 1-20-2015)

Sec. 6-1005. Fire development fee schedule.

The fire development fee schedule has been calculated pursuant to the Duncan Study and is set forth as follows:

Land Use Type	Unit	Fee
Single-family detached	Dwelling	$524.00
Multifamily	Dwelling	$393.00
Mobile home park	Site	$550.00

Retail/commercial	1,000 sq. ft.	$641.00
Office	1,000 sq. ft.	$301.00
Industrial	1,000 sq. ft.	$119.00
Warehouse	1,000 sq. ft.	$57.00
Public/institutional	1,000 sq. ft.	$229.00
Oil and gas well	Wellhead	$261.00

(Code 1994, § 4.64.070; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. No. 2, 2015 § 1(exh. A), 1-20-2015)

Sec. 6-1006. Park development fee schedule.

The park development impact fee schedule has been calculated pursuant to the Duncan Study and is set forth as follows:

Land Use Type	Unit	Fee
Single-Family Detached	Dwelling	$2,721.00
Multifamily	Dwelling	$2,041.00
Mobile Home Park	Site	$2,857.00

(Code 1994, § 4.64.080; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. No. 2, 2015 § 1(exh. A), 1-20-2015)

Sec. 6-1007. Trails development fee schedule.

The trails development fee schedule has been calculated pursuant to the Duncan Study and is set forth as follows:

Land Use Type	Unit	Fee
Single-family detached	Dwelling	$377.00
Multifamily	Dwelling	$283.00
Mobile home park	Site	$396.00

(Code 1994, § 4.64.090; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. No. 39, 2011, § 1, 12-6-2011; Ord. No. 2, 2015 § 1(exh. A), 1-20-2015)

Sec. 6-1008. Storm drainage development fee schedule.

The 2007 phased-in base level storm drainage development fee schedule has been calculated pursuant to the Red Oak Study and has been adjusted pursuant to an economic adjustment factor. The current fee schedule as of the date the ordinance codified herein is adopted is set forth as follows:

	Fee
Single-family residential, per dwelling unit	$341.00
Multifamily residential, per dwelling unit	$245.00
Retail, per site square foot of impervious surface [1]	$0.094
Commercial, per site square foot of impervious surface [2]	$0.094
Industrial, per site square foot of impervious surface [3]	$0.094

Oil and gas	$188.00

[1] Shall not exceed 70 percent of the impervious surface.

[2] Shall not exceed 70 percent of the impervious surface.

[3] Shall not exceed 76 percent of the impervious surface.

(Code 1994, § 4.64.100; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 16, 2004, § 1, 4-6-2004; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. No. 39, 2011, § 1, 12-6-2011; Ord. No. 2, 2015 § 1(exh. A), 1-20-2015)

Sec. 6-1009. Transportation development fee schedule.

The transportation development impact fee schedule has been calculated pursuant to the Duncan Study and is set forth as follows:

Land Use Type	Unit	Fee
Single-family detached	Dwelling	$3,645.00
Multifamily	Dwelling	$2,353.00
Mobile home park	Site	$1,092.00
Retail/commercial	1,000 sq. ft.	$4,825.00
Office	1,000 sq. ft.	$4,266.00
Industrial	1,000 sq. ft.	$1,476.00
Warehouse	1,000 sq. ft.	$1,376.00
Public/institutional	1,000 sq. ft.	$2,390.00
Oil and gas well	Wellhead	$1,680.00

(Code 1994, § 4.64.110; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. No. 39, 2011, § 1, 12-6-2011; Ord. No. 2, 2015 § 1(exh. A), 1-20-2015)

Sec. 6-1010. Fees applied on city-wide basis.

(a) The development fees calculated and due pursuant to this chapter have been calculated for their nexus and rough proportionality to new development on a city-wide basis.

(b) Fees calculated and collected on a city-wide basis have been and are established in accordance with the schedules contained in this chapter and any predecessor version of this chapter.

(Code 1994, § 4.64.120; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. 2, 2015 §1(exh. A), 1-20-2015)

Sec. 6-1011. Exemptions from payment of development fees.

(a) The following types of development shall be exempted from payment of the development impact fees:

(1) Reconstruction, expansion or replacement of a residential unit existing on the effective date of the ordinance from which this chapter is derived, provided that the reconstructed, expanded or replacement residential unit is within the same residential unit category as the current residential unit.

(2) Reconstruction, expansion or replacement of a nonresidential building existing on the effective date of the ordinance from which this chapter is derived, provided that no more than 1,000 square feet of additional usable nonresidential space is created.

(3) Construction of an unoccupied, detached accessory that will not produce additional impacts over and above those produced by the primary building or land use.

(4) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use where no additional impacts will be produced over and above those produced by the original building or structure.

(5) The installation or replacement of a mobile home on a lot or a mobile home site when the development impact fees for such lot or site have previously been paid pursuant to this chapter, or where a mobile home legally existed on such site on or prior to the effective date of the ordinance from which this chapter is derived.

(6) Any other type of development for which the applicant can demonstrate that the proposed land use and development will produce no more impacts from such site over and above the prior impacts from such site prior to the proposed development, or for which the applicant can show that the development impact fees for such site have previously been paid in an amount that equals or exceeds the development fees that would be required by this chapter for such development. The burden shall be on the applicant to demonstrate that such a fee was previously paid.

(b) Any such claim for exemption must be made no later than the time when the applicant applies for the building permit of the proposed development that creates the obligation to pay the development impact fees, and any claim for exemption not made at or before that time shall have been waived.

(c) The city manager or the city manager's designee shall determine the validity of any claim for exemption pursuant to the criteria set forth in subsection (a) of this section.

(Code 1994, § 4.64.130; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. 2, 2015 §1(exh. A), 1-20-2015)

Sec. 6-1012. Refunds.

(a) Any monies in the Development Impact Fee Fund separate accounts that have not been spent or encumbered within ten years after the date on which such fee was paid shall, upon application to the city by the owner of the land for which the fee was paid, be returned to such owner with interest. Interest shall be calculated at the two-year treasury bill rate adjusted on the last business day of the year for each year in the ten-year period. In order to be eligible to receive such refund, the owner of the land shall be required to submit an application for such refund to the director of finance within six months after the expiration of such ten-year period.

(b) Except as provided in subsection (a) of this section, after a development fee has been paid pursuant to this chapter, no refund of any part of such fee shall be made if the project for which the fee was paid is later demolished or destroyed or is altered, reconstructed or reconfigured so as to reduce the size of the project, the number of units in the project or the amount of traffic generated by the project.

(Code 1994, § 4.64.140; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. 2, 2015 §1(exh. A), 1-20-2015)

Sec. 6-1013. Credits against development fees.

(a) After the effective date of the ordinance from which this chapter is derived, all land dedications and property improvements over and above those required by the city for a proposed development may be granted a credit against the applicable development fee imposed for such land dedication or property improvement uses that would otherwise be due for such development. However, no credit shall be awarded for:

(1) Any land dedication for acquisition or construction of site-related improvements;

(2) Any land dedications not accepted by the city;

(3) Any acquisition or construction of property improvements not approved in writing by the city prior to commencement of the acquisition or construction; or

(4) Any land dedication, construction or acquisition of property improvements not included in the calculation of the applicable development fee pursuant to the Duncan Study or the Red Oak Study, whichever is applicable.

(b) In order to obtain a credit against development fees otherwise due, an applicant must submit a written offer to dedicate to the city specific parcels of land over and above those regularly required by the city or to acquire or construct specific improvements in accordance with all applicable state or city design and construction standards, and must specifically request a credit against the applicable identified development fee. Such written request must

be made on a form provided by the city, must contain a statement under oath of the facts that qualify the applicant to receive a credit, must be accompanied by documents evidencing those facts and must be filed not later than the time when an applicant applies for the first building permit that includes the obligation to pay the development fee against which the credit is requested. Failure by the applicant to follow the above procedures waives the claim for credit.

(c) The credit due to an applicant shall be calculated and documented as follows:

(1) Credit for qualifying land dedications shall, at the applicant's option, be valued at:

a. One hundred percent of the most recent estimated actual value for such land as shown in the records of the county assessor; or

b. That fair market value established by an MAI or Colorado Certified General Real Estate Appraiser acceptable to the city in an appraisal paid for by the applicant.

(2) In order to receive credit for qualifying acquisition or construction of improvements, the applicant shall submit completed engineering drawings, specifications and construction cost estimates to the city. The city shall determine the amount of credit due based on the information submitted or, if it determines that such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the city.

(d) Approved credits shall become effective at the following times:

(1) Approved credits for land dedications shall become effective when the land has been conveyed to the city in a form acceptable to the city at no cost to the city and accepted by the city. When such conditions have been met, the city shall note that fact in its records. Upon written request from the applicant, the city shall issue a letter stating the amount of credit available.

(2) Approved credits for the acquisition or construction of property improvements shall become effective when:

a. All required construction has been completed and has been accepted by the city;

b. A suitable maintenance and warranty bond has been received and approved by the city; and

c. All design, construction, inspection, testing, bonding and acceptance procedures have been completed in compliance with all applicable city and state procedures. However, approved credits for the construction of property improvements may become effective at an earlier date if the applicant posts security in the form of a performance bond, irrevocable letter of credit or escrow agreement and the amount and terms of such security are accepted by the city. At a minimum, such security must be in the amount of 125 percent of the approved credit, or 125 percent of the amount determined to be adequate by the city manager or designee, to allow the city to construct the property improvements for which the credit was given, whichever is higher. When such conditions have been met, the city shall note that fact in its records. Upon request of the applicant, the city shall issue a letter stating the amount of credit available.

(e) Approved credits may be used to reduce the amount of the applicable development fees due from that specific proposed development until the amount of the credit is exhausted. Each time a request to use approved credits is presented to the city, the city shall reduce the amount of the applicable development fee otherwise due from the applicant, and shall note in the city records the amount of credit remaining, if any. Upon written request from the applicant, the city shall issue a letter stating the number of credits available.

(f) Approved credits shall only be used to reduce the amount of development impact fees otherwise due under this chapter, and shall not be paid to the applicant in cash or in credits against any other monies due from the applicant to the city.

(Code 1994, § 4.64.150; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. 2, 2015 §1(exh. A), 1-20-2015

Sec. 6-1014. Development Infrastructure Fund established.

There is established a Development Infrastructure Fund which shall be a special fund in accordance with

section 5-6 of the city Charter. The Development Infrastructure Fund shall include all separate accounts of this chapter. Other accounts in the Development Infrastructure Fund may be created for the deposit of monies other than accounts required by this chapter, including, without limitation, accounts created for the deposit and expenditure of revenue bond proceeds.

(Code 1994, § 4.64.160 Ord. No. 41, 2003, § 1, 6-3-2003; Ord. 2, 2015 §1(exh. A), 1-20-2015)

Sec. 6-1015. Separate account for each fee.

All development fees collected shall be deposited into a separate account identifying each fee account, in the city's Development Infrastructure Fund, which shall be a special fund created in accordance with section 5-6 of the city Charter. The city council shall have authority to make continuing appropriations from the accounts, and appropriations and expenditures from the accounts shall be made for the purpose of paying revenue bonds of the city and (subject to any contractual restrictions entered into by the city in connection with such revenue bonds) for the purpose of paying for improvements, facilities and equipment of the types identified in the Duncan Study or the Red Oak Study.

(Code 1994, § 4.64.170; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. 2, 2015 §1(exh. A), 1-20-2015)

Sec. 6-1016. Miscellaneous provisions.

(a) Interest earned on monies in the fee accounts shall be considered part of such account and shall be subject to the same restrictions on use applicable to the development fees deposited in such account.

(b) Monies in fee account shall be considered to be spent in the order collected, on a first-in/first-out basis.

(c) No monies from the development fee account shall be spent for routine maintenance of any facility or equipment of any type or to cure deficiencies in any facilities or equipment existing on the effective date of the ordinance from which this chapter is derived. The expansion of an existing facility or improvement to provide additional capacity due to new development shall not be considered to be curing a deficiency in that facility or improvement.

(d) Nothing in this chapter shall restrict the city from requiring an applicant to construct improvements required to serve the applicant's project and otherwise permitted under applicable law, whether or not such improvements are of a type for which credits are available under section 6-1013.

(e) Any monies, including any accrued interest, not assigned to specific projects within the city's capital improvement program in any year and not expended shall be retained in the development fee account until the next fiscal year.

(f) If a development fee has been calculated and incurred based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by an applicant shall be refunded by the city to the applicant within 30 days after the city's acceptance of the recalculated amount or the date of a final decision in any appeal for the recalculation pursuant to subsection (k) of this section, whichever is later, with interest at the rate set forth in section 6-197 since the date of such overpayment. Any amounts underpaid by the applicant shall be paid to the city within 30 days after the city's acceptance of the recalculated amount, from the date of a final decision in any appeal of the recalculation pursuant to subsection (k) of this section, whichever is later, with interest at the rate set forth in section 6-197 since the date of such underpayment. In the case of an underpayment to the city, the city shall not issue any additional permits or approvals for the project for which the development fee was previously paid until such underpayment is corrected.

(g) The city council may agree to pay some or all of the development fees imposed on a proposed development by this chapter from other accounts of the city that are not restricted to other uses. Any such decision to pay any development fees on behalf of an applicant shall be at the discretion of the city council and shall be made pursuant to goals and objectives previously adopted by the city council to promote any legally permitted purpose.

(h) The development fees described in this chapter and the administrative procedures of this chapter shall be reviewed so that such review is completed five years following the effective date of the ordinance from which this chapter is derived. This review shall:

(1) Devise a new fee structure to adequately fund development-related capital improvements while ensuring

that the resulting fees do not exceed the actual cost of constructing improvements, facilities and equipment required to serve new development;

(2) Ensure that the monies collected in the development fee accounts have been and are expected to be spent for the appropriate improvements, facilities and equipment; and

(3) Ensure that such improvements, facilities and equipment will benefit those developments for which the fees were paid.

Failure to perform such review within such time shall not invalidate any portion of this chapter or restrict the city from collecting the fees described in this chapter.

(i) Violation of this chapter shall be subject to those remedies provided in chapter 9 of title 1 of this Code. Knowingly furnishing false information to any official of the city charged with the administration of this chapter on any matter relating to the administration of this chapter, including without limitation the furnishing of false information regarding the expected size or use of a proposed development, shall be a violation of this chapter.

(j) The section titles used in this chapter are for convenience only and shall not affect the interpretation of any portion of the text of this chapter.

(k) Any person aggrieved by a decision made by any administrative official of the city pursuant to this chapter may appeal that decision to the city manager. Such written appeal must be filed within 30 days after the date of the decision being appealed. Within 30 days after the filing of the appeal, the city manager shall approve, modify or reverse the appealed decision. Such decision by the city manager may be appealed within 30 days to the city council whose decision shall be the final determination by the city in the matter.

(Code 1994, § 4.64.180; Ord. No. 41, 2003, § 1, 6-3-2003; Ord. No. 01, 2011, § 1, 2-1-2011; Ord. 2, 2015 §1(exh. A), 1-20-2015)

Title 7

RESERVED

Title 8

BUSINESS TAXES, LICENSES AND REGULATIONS

CHAPTER 1. LICENSES, FEES AND REGULATIONS GENERALLY*

***Editor's note—**Ord. No. 36, 2016 , §§ 1, 2(exh. A), adopted Dec. 20, 2016, repealed Ch. 6.04, §§ 6.04.010—6.04.700, and reenacted a new Ch. 6.04 as set out herein. The former Ch. 6.04 pertained to similar subject matter and derived from Ord. No. 30, 2012, § 1, 8-7-2012; Ord. No. 26, 2011, § 1, 9-6-2011; Ord. No. 28, 2007, § 1, xx-xx-2007; Ord. No. 33, 2003, § 1, xx-xx-2003; Ord. No. 34, 1994, § 1, xx-xx-1994; Ord. No. 26, 1993, § 1(part), xx-xx-1993; Ord. No. 47, 1986, § 1, xx-xx-1986; Ord. No. 96, 1985, § 1, xx-xx-1985; Ord. 22, 1982 §9(part); Prior Code, §§ 14-1—14-21, 14-22.

Sec. 8-1. Short title.

This chapter shall be known and may be cited as the general licensing ordinance.

(Code 1994, § 6.04.010; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-2. Intent; provisions control.

It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances. With the exception of chapter 13 of this title, where this chapter imposes a greater restriction upon persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

(Code 1994, § 6.04.020; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any individual, corporation, partnership, limited liability company or other business entity that has submitted an application to the city license officer for a license.

License means any document or permit issued by the city which authorizes an individual, corporation, partnership, limited liability company or other business entity to conduct certain activities within the city. License specifically includes the city's business license and professional licenses. Any reference to license shall specifically include a manager's certificate.

License or *licensee* shall include, respectively, the terms permit or permittee or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this title or other law or ordinance.

Premises is meant to include all lands, structures and places, the equipment and appurtenances connected or used therewith in any business and any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

(Code 1994, § 6.04.030; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-4. License officer designated; duties; register.

(a) The city licensing officer shall be the director of finance unless otherwise set forth herein.

(b) The licensing officer shall collect all license and permit fees and shall issue licenses and permits in the name of the city to all persons qualified under the provisions of this title. The licensing officer shall be authorized, when in the officer's discretion it is deemed advisable, to delegate to department heads the administrative functions of collecting and issuing certain license and permit fees as required by the ordinances of the city. The licensing officer shall promulgate and enforce all rules and regulations necessary to the operation and enforcement of this title and all other ordinances of this city requiring the issuance and collection of licenses and permit fees.

(c) The licensing officer shall keep a register of all licenses and permits, including licenses and permits authorized by the officer to be issued by department heads, which register shall contain the following:

(1) Name of person licensed;

(2) Date of license;

(3) Purpose for which granted;

(4) The amount paid therefor; and

(5) The expiration date.

(Code 1994, § 6.04.040; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-5. Application submittal procedure.

Unless otherwise provided, every person required to procure a license or permit under the provisions of this title shall submit an application for such license and permit to the licensing officer. The application shall:

(1) Be in writing if required by the licensing officer and, if required, upon the forms provided by the licensing officer;

(2) Be accompanied by the full amount of the fees chargeable for such license; and

(3) Be approved by the city council when required.

(Code 1994, § 6.04.050; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-6. Approval and denial of licenses.

(a) The licensing officer or his designee shall have final authority to approve or deny any application for a license issued under this title, excepting those issued pursuant to chapter 13 of this title, or unless otherwise specifically provided. In addition to those standards set out in this title, excepting chapter 13 of this title, relative to the qualifications of every applicant for a city license, the following shall be considered and applied by the city licensing officer. The applicant shall:

(1) Not be in default under the provisions of this title, excepting chapter 13 of this title, or indebted or obligated in any manner to the city except for current taxes;

(2) Present a certificate of occupancy furnished by the building inspector to the effect that the proposed use of any premises is not a violation of city zoning regulations;

(3) Meet all conditions imposed upon the applicant as prerequisites or requirements to the issuance of the license by the terms of the provisions pertaining to the particular license sought;

(4) Pay all required license fees; and

(5) For any applicant who is not a natural person, provide information demonstrating the applicant is licensed to do business in the state.

(b) If it shall come to the attention of the licensing officer that one or more of the above conditions have not been met, the application shall be denied; otherwise, the license shall be granted. The licensing officer shall furnish the applicant with reasons supporting the denial upon the written request of the applicant in the event that the application is denied. Any applicant whose application has been denied without a hearing shall be entitled to a hearing regarding the denial of his application upon written request to the licensing officer. Such written request must be made within ten days of the denial of the application.

(Code 1994, § 6.04.060; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-7. Fees determined.

The license and permit fees for each license type shall be in the amounts set annually by the city manager in writing.

(Code 1994, § 6.04.070; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-8. Applicability; proceeds.

The licenses and permits described in this title are fixed, imposed and levied upon businesses or occupations conducted, carried on or practiced within the limits of the city, which sums shall be part of the general revenue fund

of the city.

(Code 1994, § 6.04.090; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-9. Children exempt; exception.

The licenses, fees and permits required by this title shall not be applicable to children under the age of 16 years.

(Code 1994, § 6.04.100; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-10. Rebates prohibited.

Except as provided at section 8-11, no rebate or refund of any license fee or part thereof shall be made by reason of the nonuse of such license or by reason of a change of location or business rendering the use of such license ineffective.

(Code 1994, § 6.04.120; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-11. Refund authorized when.

The licensing officer shall have the authority to refund a license fee or prorated portion thereof where:

(1) The license fee was collected through an error;

(2) The licensee has been prevented from enjoying the full license privilege due to his death or incapacity to engage in such business;

(3) The licensee has entered the armed services of the United States through induction or enlistment and is thereby rendered unable to conduct such business;

(4) The licensed business is forced to close before the expiration of the license period by reason of the taking over of the business or licensed premises by the United States government, the state or the city; or

(5) The licensed business was destroyed by fire or other casualty through no fault of the licensee.

(Code 1994, § 6.04.130; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-12. Basis for rebate.

A rebate or refund as provided at section 8-11 shall be based upon the number of days in the license period remaining after the occurrence of the event relied upon for rebate.

(Code 1994, § 6.04.140; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-13. Contents of license.

Each license issued under this title, excepting those licenses issued pursuant to chapter 13 of this title, shall state upon its face the following:

(1) The name of the licensee and any other name under which such business is to be conducted;

(2) The kind and address of each business so licensed;

(3) The dates of issuance and expiration thereof; and

(4) Such other information as the licensing officer shall determine.

(Code 1994, § 6.04.150; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-14. Duties of licensee.

(a) Every licensee under this title, excepting those licensees issued licenses pursuant to chapter 13 of this title, shall have the duties set forth below:

(1) Permit all reasonable inspections of his business.

(2) Ascertain and at all times comply with all laws and regulations applicable to such licensed business.

(3) Avoid all forbidden, improper or unnecessary practices or conditions which do or may affect the public health, morals or welfare.

(4) Refrain from operating the licensed businesses on premises after expiration of his license and during the period his license is revoked or suspended.

(5) Display his license where it may be seen at all times or carry such license or badge on his person when he has no licensed business premises.

(6) Not loan, sell, give or assign to any other person, or allow any other person to use, display, destroy, damage, remove or have in his possession, except as authorized by the licensing officer or by law, any license or badge which has been issued to such licensee.

(7) Conduct operations subject to the license in compliance with this Code.

(8) Conduct operations subject to the license in a manner that is consistent with sound financial practices.

(9) Conduct operations subject to the license in a manner to command the confidence of the public and to warrant the belief that the business will be operated lawfully, ethically, honestly and efficiently.

(10) Keep and preserve suitable records of all sales made by licensee and such other books or accounts as may be necessary to determine the amount of tax for the collection of which licensee is liable under chapter 1 of title 6 of this Code. It shall be the duty of every licensee to keep and preserve for a period of three years all invoices of goods and merchandise purchased to resale, and all such books, invoices and other records shall be open for examination at any time by the director of finance or his designee.

(11) Ensure proper oversight of solicitors. A solicitor is any person who solicits for the purchase or sale of goods or services of any nature by entering upon the residential property of another, or apartment/condominium complex having a common entrance hall/walkway, to knock or activate a bell to any residential unit therein. The licensee is responsible for:

a. Providing identification badges that display the name of the organization, the individual's name, the individual's picture, and the organization's business number.

b. Ensuring that its agents/employees display identification badges where they can be seen at all times while engaged in selling foods or soliciting orders in the city.

c. Ensuring that its agents/employees operate in compliance with the law at all times.

(b) If any licensee fails to conduct his operations in accordance with this title or in violation of this Code, the license may be revoked, suspended or subject to any other penalties set forth in this title.

(Code 1994, § 6.04.160; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-15. Location changes.

A licensee shall have the right to change the location of the licensed business without paying an additional fee, provided that he notifies the licensing officer of the change of location within ten days of such change and so long as the change in location fully complies with all applicable laws.

(Code 1994, § 6.04.170; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-16. Transfer of license prohibited.

(a) No license authorized and issued under this title, excepting those issued pursuant to chapter 13 of this title, shall be transferred except under those circumstances set forth below.

(1) Any of the following shall result in termination of the license unless, within 30 calendar days of any such change, the licensee files a written notice of such change with the licensing officer and pays a nonrefundable fee, if any.

a. Change in the partners of a partnership or manager of a limited liability company.

b. Change in the officers, directors or holders of ten percent or more of the stock of a corporation.

c. Change in the holders of ten percent or more interest in a limited liability company.

(2) Any such change shall be reported on forms provided by the licensing officer and shall require all of the information required from such persons in connection with an original application.

(b) The fee, if any, shall be set annually by the city manager.

(c) Grounds for denial of any such transfer of corporate or limited liability ownership, change of corporate or limited liability company structure, partnership and termination of the license thereon shall be the same as for denial of the license under section 8-6.

(Code 1994, § 6.04.180; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-17. Inspections by city.

(a) This section shall not be applicable to chapter 13 of this title.

(b) The following persons are authorized to conduct inspections in the manner prescribed in this title:

(1) The licensing officer shall make all investigations reasonably necessary to enforce this title.

(2) The licensing officer shall have the authority to order the inspection of licensees, their businesses and premises by all city officials and employees having duties to perform with reference to such licensees or businesses.

(3) All police officers shall inspect and examine businesses located within their respective jurisdictions to enforce compliance with this title.

(Code 1994, § 6.04.190; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-18. Scope of authority.

At all times during the term of the license, the licensee shall allow any person authorized at section 8-17 to enter the premises where the licensed business is located, including all off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, wares, merchandise and records therein to verify compliance with this title or other applicable laws. This section shall apply to:

(1) Those for which a license is required;

(2) Those for which a license was issued and which, at the time of inspection, are operating under such license; and

(3) Those for which the license has been suspended.

(Code 1994, § 6.04.200; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-19. Reports of inspectors.

Persons inspecting licensees, their businesses or premises, as authorized at section 8-17, shall report all violations of this title or of other laws or ordinances to the licensing officer and shall submit such other reports as the licensing officer shall order.

(Code 1994, § 6.04.210; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-20. Bonds.

With the exception of chapter 13 of this title, whenever a bond is required by this title, the licensee shall execute and deposit with the licensing officer or chief of police a bond in the amount required, such bond to be conditioned that all work performed by the licensee or under his supervision shall be performed in accordance with the provisions of this title, and all laws and ordinances of the city; and that he will pay all fines and penalties properly imposed upon him for violation of the provisions of this title, or the laws and ordinances of the city, and to save the city harmless from damages arising from the workmanship or negligence of the licensee.

(Code 1994, § 6.04.220; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-21. Renewal.

(a) This section does not apply to chapter 13 of this title.

(b) Unless otherwise specified, each license issued pursuant to this title shall be for a period of one year from the date of issuance. An application for renewal shall be filed no less than 30 calendar days prior to the expiration

of the period for which the license is issued.

(1) In the event a license required by the title, excepting chapter 13 of this title, is not procured and the fee therefor paid 30 days after the due date, then a late renewal may be approved by the licensing officer or chief of police if the renewal is filed within 90 days of the due date and good cause is shown for late filing of the renewal application. Otherwise, any unpaid renewal shall result in termination of the expired license and subject the licensee to the penalties and restrictions of this chapter, including section 8-27.

(2) When an application for renewal is received in proper form by the licensing officer or chief of police and approved for late renewal, then a penalty of five percent shall be added to and become a part of the license fee charged, and in the event the same shall remain unpaid 60 days after the annual anniversary due date, then an additional five percent shall be added to and become a part of the license fee levy.

(c) When an application for renewal is received in proper form by the licensing officer or chief of police, the licensing officer or chief of police shall investigate or shall refer the renewal application to the appropriate department for investigation and its recommendation with respect to the approval or denial of the renewal application.

(1) Where a background investigation is required for an original application, a background investigation is required before a license will be renewed unless otherwise specified in this title.

(2) Such license may be renewed by the licensing officer or chief of police prior to completion of the background investigation; provided, however, that the background investigation must be completed within 30 days of the renewal. Should the information contained in the background investigation make the applicant ineligible for renewal of the license, the license shall be deemed not renewed upon transmission of written notice to the licensee.

(d) The application fee shall be required on applications for renewal of an existing license and shall be set annually by the city manager in writing.

(e) The licensing officer or chief of police may refuse to renew a license on any grounds specified in this chapter which authorize the licensing officer or chief of police to deny a license or to revoke a license.

In the event the licensing officer or chief of police fails to renew a license, an applicant shall be entitled to a hearing on such failure to renew. The applicant shall submit a written request for a hearing within ten days of the decision not to renew the license.

(Code 1994, § 6.04.230; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-22. Emergency suspension.

(a) This section does not apply to chapter 13 of this title.

(b) When the conduct of any licensee, agent or employee is so inimical to the public health, safety and general welfare as to constitute a nuisance and thus give rise to an emergency, the licensing officer, or his duly authorized agent, shall have the authority to summarily order the cessation of business and suspend the license, pending further investigation, for a period not exceeding 30 days.

(Code 1994, § 6.04.240; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-23. Suspension and revocation.

(a) This section does not apply to chapter 13 of this title.

(b) In addition to any other penalties prescribed by this Code, the licensing officer may, on his own motion or upon receiving a complaint, and after investigation and a show-cause hearing at which the licensee shall be afforded an opportunity to be heard, suspend or revoke any license previously issued for any violation of any of the following provisions, requirements or conditions:

(1) The licensee has failed to pay the annual license fee;

(2) The licensee has made any false statement in the application for a license as to any of the facts required to be stated in such application;

(3) The licensee has failed either to file the required reports or to furnish such information as may be

reasonably required by the licensing officer under the authority vested in the licensing officer by the terms of the provisions relating to the specific license;

(4) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any terms of the provisions pertaining to the license or any regulation or order lawfully made under and within the authority of the terms of the provisions relating to the license;

(5) Any fact or condition exists which, if it had existed or had been known to exist at the time of the application for such license, would have warranted the licensing officer in refusing to originally issue such license;

(6) The licensee, or any of the agents, servants or employees of the licensee, has violated any rule or regulation promulgated by the licensing officer under this Code relating to the specific license issued;

(7) The licensee has failed to maintain the premises in compliance with the requirements of the city's building inspection division or fire department, or the county health department;

(8) The licensee, or any of the agents, servants or employees of the licensee, has violated any ordinance of the city or any state or federal law on the premises or has permitted such a violation on the premises by any other person;

(9) The licensee, or any of the agents, servants or employees of the licensee, is not in good standing or otherwise not authorized to do business in the state; or

(10) The licensee has engaged in unethical, dishonorable or immoral conduct.

Unethical, dishonorable or immoral conduct shall include, but is not limited to, violation of any professional standards or ethical codes adopted by any local state or national professional group which relates to the licensee's profession.

(c) No suspension under this section shall be for a longer period than six months.

(d) Notice of the licensing officer's intent to suspend or revoke the license, as well as notice of the show-cause hearing, shall be given by mailing the same in writing to the licensee at the licensee's last address of record with the licensing officer.

(1) A hearing to suspend or revoke a license shall be conducted by the administrative hearing officer as provided in chapter 11 of chapter 2 of this Code. ~~within 30 calendar days of the licensing officer's written notice of intent to suspend or revoke a license unless otherwise set by the administrative hearing officer, but the date for such hearing shall not exceed 60 calendar days.~~

(Code 1994, § 6.04.250; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-24. Effect of termination.

Upon the expiration, revocation, surrender or other termination of a license, for whatever reason under this title, the license shall be deemed null and void, together with all the privileges associated with it. During the period that a license is suspended, no licensee shall exercise any of the privileges associated with the license.

(Code 1994, § 6.04.260; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-25. Restrictions on application for new license.

(a) This section shall not apply to chapter 13 of this title.

(b) No application for the issuance of any license shall be received or acted upon if, within 365 days preceding the date of the application, the applicant has had a similar license revoked by the licensing officer. For the purposes of this section, the term "applicant" includes any individual licensee; a person who was an officer, director or shareholder holding over ten percent of the stock in any corporate licensee which has had a similar license revoked; any corporation any of whose officers, directors or shareholders holding over ten percent of the stock has had a similar license revoked; or any partnership any of whose partners has had a similar license revoked.

(c) Any applicant whose license has been revoked may apply for relicensing one year after the effective date of revocation. The license may then only be issued after a hearing.

(1) At the hearing for relicensure, the applicant must present evidence of rehabilitation and that the violation has been corrected. The applicant must also provide satisfactory assurance that substantial compliance with this Code will be met in the future.

(2) A hearing to relicense a revoked licensee shall be conducted by the administrative hearing officer within 60 calendar days of the licensing officer's receipt of a written request for relicensure unless otherwise set by the administrative hearing officer, but the date for such hearing shall not exceed 120 calendar days, unless the person requesting the hearing waives the right to a hearing within that period.

(Code 1994, § 6.04.270; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-26. Hearings; appeals.

(a) This section shall not apply to chapter 13 of this title.

(b) Where no other procedure is set forth in this chapter, any person aggrieved by any decision of the licensing officer or his designee shall have the right of appeal to the administrative hearing officer by filing a written appeal with the administrative hearing officer within ten days following the effective date of the action or decision complained of.

(c) The administrative hearing officer shall hear the appeal within 20 calendar days of the licensing officer's receipt of a written request for a hearing unless otherwise set by the administrative hearing officer, but the date for such hearing shall not exceed 40 calendar days, unless the person requesting the hearing waives the right to a hearing within that period.

(d) Every decision of the administrative hearing officer shall be in writing, and notice thereof shall be sent by first-class mail to the licensee within 20 calendar days after such hearing, and all such decisions shall constitute final agency action.

(e) Any order of the administrative hearing officer shall be subject to review by the District Court of the Nineteenth Judicial District of the state, upon application of the aggrieved party. The procedure for review shall be in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(Code 1994, § 6.04.280; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-27. Violation.

It is unlawful for any person to engage in any business or occupation set out in this title without first having and obtaining all required licenses and paying the fee for the same set out in this title. Each day of violation shall be a separate offense and a person may be fined and convicted under this title for each day as a separate offense. Any and all said remedies are cumulative in nature and not exclusive of each other.

(Code 1994, § 6.04.290; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Secs. 8-28--8-57. Reserved.

CHAPTER 2. BUSINESS LICENSE*

***Editor's note—**Ord. No. 36, 2016 , §§ 1, 2(exh. A), adopted Dec. 20, 2016, repealed Ch. 6.05, §§ 6.05.010—6.05.080, and reenacted a new Ch. 6.05 as set out herein. The former Ch. 6.05 pertained to temporary vendors and derived from Ord. No. 28, 2007, § 1, xx-xx-2007; Ord. 20, 1988 § 1(part).

Sec. 8-58. Business license required.

(a) It shall be unlawful for any person to engage in business in the city without first having obtained a business license. The business license is required if such person engages in any business within the city, which consists, without limitation, of the selling of goods, wares or merchandise or the performance or rendering of any service for charge; this includes any business that regularly sells, leases, rents, delivers or installs tangible personal property within the city limits. Such business license shall be granted and issued by the licensing officer or his designee. Such business license shall be in addition to any professional license required by this Code.

(b) Every person required to procure a license shall submit an application for such license to the licensing officer. The application shall:

(1) Be in writing upon the forms provided by the licensing officer; and

(2) Be accompanied by the full amount of the fee, if any, as set annually by the city manager;

(c) Such license shall be granted upon the application stating the name and address of the person desiring such license, the name and character of the business, the location, including the street number of such business, and such other facts as may be reasonably required by the licensing officer.

(d) The business license shall be in force and effect until the earlier of:

(1) Two years from the issue date; or

(2) Revocation of such license; or

(3) Sale or termination of the business.

(Code 1994, § 6.05.010; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Secs. 8-59--8-89. Reserved.

CHAPTER 3. TREE TRIMMING LICENSES, FEES GENERALLY

Sec. 8-90. Tree trimming license.

(a) A license is required to engage in the business of trimming, or removing trees in the city, and the fee for said license shall be set in writing annually by the city manager.

(b) The licensee shall maintain liability insurance in an amount to be set annually by the city manager in writing with proof of the same to be presented at the time of submission of the application or application renewal.

(c) The licensee may be required to demonstrate competence and knowledge in the business of tree trimming by passing a written test and by demonstrating the necessary skills.

(d) Each license shall be issued for a single year. Each applicant for a renewal license may be required to pass the test referred to in section 8-58(c); the decision in this regard shall operate uniformly as to all renewal applicants.

(Code 1994, § 6.07.010; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Secs. 8-91--8-108. Reserved.

CHAPTER 4. PUBLIC RIGHT-OF-WAY CONTRACTORS *

***Editor's note—**Ord. No. 36, 2016 , §§ 1, 2(exh. A), adopted Dec. 20, 2016, repealed Ch. 6.08, §§ 6.08.010—6.08.030, 6.08.090, 6.08.100, and reenacted a new Ch. 6.08 as set out herein. The former Ch. 6.08 pertained to retail sales licenses and derived from Prior Code, §§ 19A-26(a) and (b), 19A-27, 19A-32, 19A-48.

Sec. 8-109. Public right-of-way contractor defined.

The term "public right-of-way contractor," within the scope of this chapter, means a person or firm in charge of constructing, installing, altering or repairing, on behalf of another person, any sidewalk, curb, gutter, driveway, curb cut, street, alley or any other improvement in or under a public right-of-way, in the city.

(Code 1994, § 6.08.010; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-110. License and right-of-way permit bond required.

(a) To engage in the business of a public right-of-way contractor, as defined in section 8-109, regardless of the number of projects in which the contractor engages, the fee shall be set annually by the city manager in writing.

(b) Every applicant for a public right-of-way contractors' license shall furnish the licensing officer with a right-of-way permit bond in an amount to be set annually by the city manager in writing, for the benefit of the people of the city, which bond shall be conditioned upon the compliance with requirements, specifications and instructions of the director of public works and all the requirements of this Code of Ordinances and the terms of any right-of-way permit.

(c) No license shall be issued or renewed absent such bond. Termination or cancellation of an approved

bond shall be grounds for summary suspension of the license and for subsequent revocation if a new bond is not furnished within 30 days after demand by the licensing officer.

(Code 1994, § 6.08.020; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-111. Work without permit or permission prohibited.

No public right-of-way contractor shall perform services on behalf of any person who has failed to obtain a permit as provided for in chapter 1 of title 16 of this Code for the work contracted.

(Code 1994, § 6.08.030; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-112. Guarantee of work designated; no document required.

A public right-of-way contractor who engages in any of the work or services described in section 8-109 has expressly guaranteed that such construction, installation, alteration or repair will be free of defects due to materials or workmanship. The guarantee shall be in effect for a period of two years beginning with the date of final acceptance of the work by the city pursuant to chapter 1 of title 16 of this Code, and the provision of a right-of-way license and permit bond.

(Code 1994, § 6.08.040; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-113. Breach of guarantee; license revocation, judicial remedies.

A breach of the guarantee provided for at section 8-112 occurs if defects are found to exist in the work within the two-year period and if the public right-of-way contractor fails to commence efforts to correct the defects complained of within ten days following written notification identifying the defects, or if the public right-of-way contractor does commence efforts within the ten-day period but fails to complete the remedial work with due diligence. If a breach of guarantee occurs, the client may pursue all available judicial remedies and, in addition, the city shall deny new right-of-way permits to revoke the license of the right of contractor.

(Code 1994, § 6.08.050; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Secs. 8-114--8-139. Reserved.

CHAPTER 5. OUTDOOR VENDOR LICENSE

Sec. 8-140. Definitions.

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

Commissary shall mean a commissary that is approved as such under the laws and regulations of the state and county that govern retail food establishments.

Commissary-prepared shall mean prepared, cooked and assembled in a commissary, without further preparation, cooking or assembly after leaving said commissary.

Construction mobile food vendor shall mean any outdoor vendor operating in any construction location from a mobile food truck or pushcart with the intent of making temporary stops to service construction workers.

Food shall mean a raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

Food truck rally shall mean a temporary event, operating under a temporary use permit, of more than two outdoor vendors (such as food trucks and carts), held on improved private property with permission of the owner thereof, and only serving pedestrians.

Garage or yard sale shall mean the occasional sale of new or used goods at a residence, which may be held outside and/or within a garage or accessory building and which shall occur no more than two times during a calendar year, for no more than three consecutive days each time, within any consecutive 12-month period.

Mobile food truck shall mean a legal motorized wheeled vehicle or towed wheeled vehicle designed and equipped to serve food. The term "mobile food truck" includes both hot trucks, upon which food is cooked and prepared for vending, and cold trucks, from which only commissary-prepared, ready-to-eat or packaged foods in

individual servings are handled.

Mobile food truck vendor shall mean an outdoor vendor who operates from a mobile food truck.

Neighborhood mobile food vendor shall mean an outdoor vendor operating in locations on streets that are in residential use areas from a mobile food truck or pushcart licensed for use in the retail sale or service of only commissary-prepared, ready-to-eat or packaged food in individual servings. Neighborhood mobile food vendor shall not include a vendor operating from a mobile food truck or pushcart on which food is cooked.

Outdoor vendor shall mean any person, whether as owner, agent, consignee or employee, who sells or attempts to sell, or who offers to the public free of charge, any services, goods, wares or merchandise, including, but not limited to, food or beverage, from any outdoor location, except that outdoor vendor shall not include a person who:

(1) Vends from private property where the same or similar services or goods are also offered on a regular basis from an indoor location on such premises;

(2) Vends directly and exclusively to manufacturers, wholesalers or retailers for the purpose of resale;

(3) Vends by or on behalf of the city or at an outdoor event sponsored by the city;

(4) Vends from property owned by the city, if such vending is pursuant to a concession agreement or other agreement with the city;

(5) Vends at a garage or yard sale;

(6) Vends outdoor transportation services as a public utility under a certificate of public convenience and necessity issued by the state public utilities commission;

(7) Vends food or catering services at an individual private residence for a private event;

(8) Vends by or on behalf of any public or private school; or

(9) Delivers preordered packaged food.

Outdoor vendor of miscellaneous goods and services shall mean an outdoor vendor who offers miscellaneous goods or services to the public on private property. The term "outdoor vendor of miscellaneous goods and services" shall include, but not be limited to, Christmas tree lots, pumpkin patches and other temporary outdoor holiday sales; vehicle windshield chip repair; temporary car wash events; and temporary nonprofit fundraising sales.

Outdoor vendor of transportation services shall mean an outdoor vendor (not regulated by the state public utility commission) who offers transportation services to the public. The term "outdoor vendor of transportation services" shall include, but not be limited to, vendors of valet parking services; transportation services by pedal power such as pedi-cab or conference bicycle services; horse-drawn carriage rides; or other means of transportation service offered for hire.

Packaged shall mean bottled, canned, cartoned, securely bagged or securely wrapped, whether packaged in a food establishment or a food processing plant. Packaged shall not include a product in a wrapper, carry-out box or other nondurable container used to protect food during the service and receipt of the food by the consumer.

Private property shall mean any location that is not a public right-of-way or public street, alley or sidewalk.

Pushcart shall mean a mobile vending cart, pushcart or trailer that is not motorized or attached to a vehicle for towing and that does not exceed ten feet in length (excluding the length of the trailer hitch, if any), four feet in width or eight feet in height. A pushcart may be used to cook and prepare food for vending or to serve commissary prepared, ready-to-eat or packaged food in individual servings.

Pushcart vendor shall mean an outdoor vendor operating from a pushcart.

Ready-to-eat food shall mean food that is edible and that is in the form in which it is reasonably expected to be consumed without further washing, cooking or additional preparation.

Vend or *vending* shall mean the sale, attempt to sell or offering to the public of any services, goods, wares or merchandise.

(Code 1994, § 6.09.010; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-141. License required.

(a) It shall be unlawful for any outdoor vendor to engage in such business within the city without first obtaining a license in compliance with the provisions of this chapter.

(b) Any person who arranges for or allows one or more outdoor vendors to operate at a special event must obtain a temporary use permit issued under chapter 16 of title 24 of this Code ~~52.040~~. Upon the issuance of such permit, the outdoor vendors vending at such special event shall be relieved of the obligation to obtain individual licenses under this chapter in order to operate as part of said special event.

(c) The application fee to be paid to the city for the issuance, modification or renewal of any license pursuant to this chapter shall be set by the city manager pursuant to section 8-7.

(Code 1994, § 6.09.020; Ord. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-142. Application for license; license modifications.

(a) An application for a license under this chapter shall be submitted to the licensing officer no less than five working days prior to the first day of proposed operation.

(b) A license may be issued under this chapter for a period of 12 months.

(c) A request for a modification of a license to add new vehicles, operations or locations or to modify other license restrictions or conditions, as applicable, shall be submitted to the licensing officer and shall meet all of the requirements and be reviewed in the same manner as an application for a license hereunder. The term of a license may not be modified to extend beyond the originally applicable 12-month period.

(Code 1994, § 6.09.030; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-143. Contents of application.

(a) The application shall be on a form provided by the licensing officer and shall contain the following information:

(1) Name, address and telephone number of the applicant and, if other than the applicant, name, address and telephone number of the person managing or supervising the applicant's business during the proposed period of operation; and, if a corporation, the state under which it is incorporated.

(2) Type of operation to be conducted, including the particular type of service, goods, wares or merchandise to be sold.

(3) A description of the design of any vehicle, pushcart, kiosk, table, chair, stand, box, container or other structure or display device to be used in the operation by the applicant, including the size and color, together with any logo, printing or sign which will be utilized by the applicant, and the license plate and registration information for any vehicle to be used.

(4) The proposed hours and days of operation.

(5) Each location on private property for which the application is made.

(6) Written consent of the property owner if the location for which the application is made is on private property.

(7) Proof of liability insurance as required by section 8-146(g).

(8) A plan drawing of each location on private property for which the application is made, showing the location of existing and proposed structures, access, equipment and parking.

(9) Documentation of a sales and use tax license in good standing issued by the state department of revenue.

(10) For the vending of food, documentation of a mobile retail food establishment license issued by the county.

(b) The licensing officer may request and require such additional information as he deems necessary in order to consider the application and make the required determinations as set forth in this chapter.

(Code 1994, § 6.09.040; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-144. Review and approval.

(a) The licensing officer shall review such application and shall make a determination as to whether the application contains the required information and, if so, whether the issuance of a license is consistent with the requirements of this chapter and compatible with the public interest. In making such determination, the licensing officer shall consider the following factors and may consider other factors the licensing officer considers necessary to protect the health, safety and welfare of the public:

(1) The degree of congestion of any public right-of-way that may result from the proposed use and the design and location of any operating locations on private property, including the probable impact of the proposed use on the safe flow of vehicular and pedestrian traffic. Factors to be considered shall include, but not be limited to, the width of streets and sidewalks, the volume of traffic and the availability of off-street parking;

(2) The proximity, size, design and location of existing street fixtures and furniture at or near the specified locations, including, but not limited to, signposts, lampposts, bus stops, benches, telephone booths, planters and newspaper vending devices;

(3) The probable impact of the proposed use on the maintenance, care and security of the specified location;

(4) The recommendations of the community development director, insofar as the specified locations may affect the operation of those service areas, based upon the factors recited herein; and

(5) The level and types of outdoor vendor activity already licensed for the specific locations proposed in the application, and the impacts that the issuance of a license may have on surrounding properties.

(b) The licensing officer shall also obtain the determination of the community development director as to whether the proposed use conforms to the requirements of the land use code as applied to any specified location. If the community development director determines the proposed use is not in compliance with the requirements of the land use code, the application shall not be approved.

(c) If the licensing officer determines that the issuance of a requested outdoor vendor license would be consistent with the requirements of this chapter, with or without additional conditions, the licensing officer shall issue the license, subject to any such conditions. If the licensing officer determines that the issuance of an outdoor vendor license would not be consistent with the requirements of this chapter, the licensing officer shall notify the applicant of his determination in writing, with an explanation of the reasons for such denial.

(Code 1994, § 6.09.050; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-145. Contents of license.

(a) In addition to the licensee's name, address and telephone number, the license shall contain the following:

(1) The type of operation;

(2) The period of time for which the license was issued;

(3) The hours and days of operation;

(4) The designated location or locations, including specified types of public rights-of-way, as applicable;

(5) A brief description of any vehicle, cart, kiosk, table, chair, stand, box, container or other structure or display device to be utilized by the licensee;

(6) For mobile food trucks, the vehicle's license plate number;

(7) A statement that the license is personal to the vendor and is not transferable in any manner;

(8) A statement that the license is valid only when used at the location or locations designated on the license;

(9) A statement that the license is subject to the provisions of this chapter;

(10) Any conditions based on the review and approval, as determined by the licensing officer.

(Code 1994, § 6.09.060; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-146. Restrictions and operation.

(a) No licensee may use, for the purpose of on-site storage, display or sale, any vehicle, cart, kiosk, table, chair, stand, box, container or other structure or display device not described on the face of the license.

(b) No such vehicle, structure or device referred to in subsection (a) of this section shall be located:

(1) In any on-street parking space that is not parallel to the adjacent street;

(2) In any public parking space in a manner that does not comply with applicable parking regulations as set forth in article XII of title 16 of this Code;

(3) Upon a public right-of-way, or public street, alley or sidewalk within a city park or other city property unless vending is pursuant to a concession agreement or other agreement with the city;

(4) In any location in which the vehicle, structure or device may impede or interfere with or visually obstruct:

a. The safe movement of vehicular and pedestrian traffic;

b. Parking lot circulation; or

c. Access to any public street, alley or sidewalk.

(c) No licensee shall operate during the hours of 3:00 a.m. to 5:00 a.m. and must remove the vehicle, cart, kiosk, table, chair, stand, box, container or other structure or display device from the location.

(d) No licensee shall park or operate at any public or private location for more than eight hours in a 24-hour period.

(e) Every licensee must obtain the written consent of the property owner and approval by the city of Greeley to operate on private property.

(f) No licensee may provide drive-in or drive-through services to the vending vehicle.

(g) Each licensee who, during the course of its licensed activities, operates within or enters upon a public right-of-way or publicly-owned property shall maintain liability insurance in an amount to be set annually by the city manager in writing with proof of the same to be presented at the time of submission of the application. Any licensee who fails to provide proof of such insurance shall be prohibited from operating within or entering upon such property.

(h) Each licensee shall pick up and dispose of any paper, cardboard, wood or plastic containers, wrappers or any litter which is deposited within 25 feet of the designated location or within 25 feet of the point of any sale or transaction made by the licensee if the radius of the designated location exceeds 25 feet. The licensee shall carry a suitable container for the placement of such litter by customers or other persons.

(i) Each licensee shall maintain in safe condition any vehicle, structure or device as described in subsection (a) of this section, so as not to create an unreasonable risk of harm to the person or property of others, and shall use flashing lights and other similar warning and safety indicators when stopped to vend services in any location in a street right-of-way.

(j) No licensee shall leave unattended any vehicle, structure or device as described in subsection (a) of this section, on a public right-of-way or at any licensed location, or place on public sidewalks or in public streets or alleys any structures, canopies, tables, chairs or other furniture or equipment.

(k) Each licensee shall prominently display the license issued hereunder in a location readily visible to the public on each vehicle, structure or device as described in subsection (a) of this section.

(l) Each licensee operating in an on-street location must serve the public only from the sidewalk or curbside and not from the street or adjacent parking spaces.

(m) Each licensee shall comply with the provisions of all applicable ordinances of the city as well as the requirements of all state and federal laws, including, but not limited to, city noise restrictions, sign regulations, limitations on discharge of liquid waste, sales and use tax requirements and food safety and other related requirements established by state or county regulation.

(n) Outdoor vendors of any specified type may be licensed to operate on any lot, tract or parcel of land, but

shall not displace minimum required parking by zoning except as determined in individual cases by the community development director, except that this limitation shall not apply to temporary use permits provided for in chapter 16 of title 24 of this Code.

(o) Each licensee shall have an affirmative and independent duty to determine the safety and suitability of any particular stopping point or location of operation, both in general and at any particular time and to operate in a manner reasonably calculated to avoid and prevent harm to others in the vicinity of the licensee's operations, including, but not limited to, potential and actual customers, pedestrians and other vendors or vehicles.

(p) The following additional requirements shall apply to particular types of outdoor vendor licensees, as specified:

(1) Mobile food truck vendors shall:

a. Vend only on lots in nonresidential use areas or on streets in locations in nonresidential use areas where parallel parking is allowed;

b. Vend only food and nonalcoholic beverages; and

c. Permanently affix or paint any signage on the mobile food truck, with no signs/banners in or alongside street right-of-way or across roadways.

(2) Pushcart vendors shall:

a. Vend only on lots in nonresidential use areas or on streets in locations in nonresidential use areas where parallel parking is allowed;

b. Not stop to vend within 300 feet of the property boundary of any public or private school for students within the grade range of kindergarten through 12th grade;

c. Vend only food and nonalcoholic beverages; and

d. Stop to vend only in locations that are no more than 12 inches from a curb or edge of travel lane.

(3) Construction mobile food vendors shall:

a. Only operate in areas where new construction (as defined in section 24-5) is taking place;

b. Not stop to vend for more than two hours at any one time;

c. Not stop to vend in residential zones that have less than three single-family dwellings being constructed in a 200-foot radius;

d. Stop to vend only in construction locations that are no more than 12 inches from a curb or edge of the travel lane, or in designated off-street parking areas; and

e. Vend only during the hours of 6:00 a.m. to 8:00 p.m. in residential use areas.

(4) Neighborhood mobile food vendors shall:

a. Vend only on streets in locations in residential use areas where parallel parking is allowed;

b. Vend only during the hours of 10:00 a.m. to 8:00 p.m.;

c. Vend only food and nonalcoholic beverages;

d. Stop to vend only in locations that are no more than 12 inches from a curb or edge of travel lane; and

e. Not stop to vend for more than 15 minutes in any particular cul-de-sac, or on any particular block face.

(5) Outdoor vendors of miscellaneous goods and services shall operate only on lots in nonresidential use areas.

(6) Outdoor vendors of transportation services shall:

a. Operate in accordance with all local, federal and state traffic laws and regulations;

b. Limit stopping and standing in street rights-of-way or alleys so as to avoid delay or obstruction of

traffic;

c. Stop to vend services only in locations that are no more than 12 inches from a curb or edge of travel lane; and

d. Operate so as to avoid obstruction of pedestrian traffic and not on sidewalks.

(Code 1994, § 6.09.070; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-147. Restrictions due to changed conditions.

The licensing officer may suspend the vending operation of any licensee or all licensees at any designated location if he determines that the licensed activity in that location will no longer meet the requirements of this chapter due to construction activity or other changed conditions affecting public health, safety or welfare. In such event, the licensing officer shall provide written notice to the affected licensee or licensees, and the authorization to operate in such location shall not be reinstated until such time, if at all, as the licensed operations may be safely resumed in the judgment of the city manager. Any such suspension shall not extend the term of the affected license or licenses.

(Code 1994, § 6.09.080; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-148. Revocation or nonrenewal.

In addition to those provisions set forth in section 8-22 and 8-23, the licensing officer may temporarily suspend, or permanently revoke and shall not renew, any license issued pursuant to this chapter if the licensing officer determines that any of the following have occurred:

(1) Failure to remit any sales and use tax due;

(2) Failure to operate or supervise operations conducted under the license, so as to reasonably ensure that such operation is in compliance with the terms of the license and with the provisions of this chapter; or

(3) Authorizing, condoning or knowingly tolerating any unlawful vending operations or any operation conducted in such a manner as to constitute a menace to the health, safety or general welfare of the public.

(Code 1994, § 6.09.090; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Secs. 8-149--8-179. Reserved.

CHAPTER 6. PAWNBROKERS

Sec. 8-180. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Contract for purchase shall mean a contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker on the condition that the customer, for a fixed price and within a fixed period of time not to be less than 30 days, has the option to cancel said contract.

Customer shall mean a person who delivers personal property into the possession of a pawnbroker for the purpose of entering into a contract for purchase or a purchase transaction.

Fixed period of time shall mean that period of time, to be no less than 30 days, as set forth in a contract for purchase, for an option to cancel said contract.

Fixed price shall mean that amount agreed upon to cancel a contract for purchase during the option period. Said fixed price shall not exceed 1/5 of the original purchase price for each month plus the original purchase.

Manager shall mean a person employed by a pawnbroker who is designated as manager or whose duties entail the exercise of discretion and independent judgment in the administration of the affairs of a pawnbroker's business and the supervision of other employees, as well as the making of loans, the execution of any documents required to be prepared pursuant to this section and/or the purchasing of goods or property on behalf of the business.

Manager's certificate shall mean the document issued by the city which authorizes an individual to perform

his duties as manager for the pawnbroker.

Option shall mean the fixed time and the fixed price agreed upon by the customer and the pawnbroker in which a contract for purchase may, but does not have to, be rescinded by the customer.

Owner shall mean a natural person or legal entity, other than a pawnbroker, who claims to be vested with the legal or rightful title to the tangible personal property.

Pawnbroker shall mean a person, partnership, limited liability company or corporation regularly engaged in the business of making contracts for purchase or purchase transactions in the course of his business. The term "pawnbroker" does not include secondhand dealers, as defined in and regulated by C.R.S. §§ 18-13-114 through 18-13-118, the term "pawnbroker" shall also include, without limitation, all owners, managers or employees of a pawnbroker business required to be licensed by the city whose regular duties include making contracts for purchase, purchase transactions or executing any documents required to be prepared pursuant to this chapter.

Pawnbrokering shall mean the business of a pawnbroker as defined by this section.

Peace officer shall mean any undersheriff, or deputy sheriff (other than one appointed with authority only to receive and serve summons and civil process), police officer, state patrol officer, town marshal or investigator for a district attorney or the Attorney General, who is engaged in full-time employment by the state or a city, county, town or judicial district within the state.

Pledge or *pledged property* shall mean any tangible personal property deposited with a pawnbroker pursuant to a contract for purchase in the course of his business as defined in this section.

Pledgor shall mean a customer who delivers a pledge into the possession of a pawnbroker.

Purchase transaction shall mean the purchase by a pawnbroker in the course of his business of tangible personal property for resale, other than newly manufactured tangible personal property which has not previously been sold at retail, when such purchase does not constitute a contract for purchase.

Tangible personal property or *personal property* or *property* shall mean all personal property other than those in action, securities or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his business in connection with a contract for purchase of a purchase transaction.

(Code 1994, § 6.10.010; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-181. Pawnbrokers license and manager's certificate required.

(a) It is unlawful for any person to engage in the business of pawn brokering except as provided in and authorized by this chapter and without first having obtained a license from the city. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this chapter.

(b) It is unlawful for any person to act as a manager for a pawnbroker business without first having obtained a manager's certificate from the city. Such license shall be kept current at all times, and the failure to maintain a current manager's certificate while acting as a manager shall constitute a violation of this chapter.

(Code 1994, § 6.10.020; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-182. Application.

(a) All applicants for a pawnbroker's license shall file an application for such license with the chief of police on forms to be provided by the chief of police. Each individual applicant, partner of a partnership, manager of a limited liability company, officer, director and holder of ten percent or more of the corporate stock of the corporate applicant or holder of ten percent or more interest in a limited liability company, all managers and any person with a financial interest in the pawnbroker establishment shall be named in each application form, and shall have been investigated as required by section 8-184 prior to a license being granted. Each individual applicant, partnership, limited liability company and corporate applicant for a pawnbroker's license shall, in addition, furnish, as an attachment to and part of, such application, evidence that the proposed establishment meets the requirements of the zoning ordinance, the building code and the revenue and finance code, and proof of the applicant's right to possession of the premises wherein the business of pawn brokering will be conducted.

(b) All applicants for a manager's certificate shall file an application for such certificate with the chief of police on forms to be provided by the chief of police. Each applicant for a manager's certificate shall have been investigated as required by section 8-184 prior to a certificate being granted.

(Code 1994, § 6.10.030; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-183. Application fee.

Each applicant, whether an individual, partnership, limited liability company or corporation, shall pay an application fee at the time of filing an application. The fee shall be set annually in writing by the city manager.

(Code 1994, § 6.10.040; Ord. No. 36, 2016 , § 2(exh. A), 12-20-2016)

Sec. 8-184. Investigation.

(a) Investigation for a pawnbroker's license. No license shall be issued by the city until the application for a license has been investigated by the chief of police and received a statement of good standing issued by the police department.

An applicant for a pawnbroker's license or for the renewal of such license shall undergo a background investigation as directed by the chief of police. Each applicant for a license shall furnish sufficient documentation, such as a current driver's license, an alien registration card or other reasonable identification card, to prove the applicant's name, date of birth and residency, and shall provide any other information which is requested on the application.

(b) Investigation for a manager's certificate. No pawnbroker licensee shall employ a person as a manager, nor shall any person accept such employment as a manager, unless such person has been investigated and been granted a manager's certificate by the chief of police and received a statement of good standing issued by the police department.

(1) An applicant for a manager's certificate or for the renewal of such certificate shall undergo a background investigation as directed by the chief of police. Each applicant for a certificate shall furnish sufficient documentation, such as a current driver's license, an alien registration card or other reasonable identification card, to prove the applicant's name, date of birth and residency, and shall provide any other information which is requested on the application.

(2) An applicant for a manager's certificate shall pay a nonrefundable fingerprint and investigation fee in an amount not to exceed actual costs. If, however, the applicant can provide proof of a criminal history investigation completed by the state bureau of investigation within the year immediately preceding the application, such person need only submit a fingerprint card and pay the associated fingerprint fee.

(3) Each manager's certificate shall have clearly imprinted thereon a statement that it is valid only for the period of time specified on said certificate. A provisional certificate shall be issued by the chief of police upon filing of the application, which provisional certificate shall remain in effect during the pendency of an applicant's background investigation. Each provisional or regular manager's certificate shall be stamped with the name of the pawnbroker and business locations for which it is valid. A regular certificate issued shall be for a maximum period of one year; and such certificate shall automatically expire upon a change of employment by the certificate holder, unless renewed within ten days thereafter, or if the holder is not employed in the pawn industry within the city for a period of 90 days or more. A manager's certificate which has expired may be renewed by the application process described above.

(c) A pawnbroker's license or a manager's certificate may be revoked when the holder has been determined by the chief of police to be in violation of any of the provisions of this chapter.

(d) Any applicant who has made a false statement upon the application for a pawnbroker license and/or application for a manager's certificate, in addition to being subject to revocation of said license and/or certificate, commits a misdemeanor infraction punishable under chapter 9 of title 1 of this Code.

(e) No pawnbroker license or manager's certificate shall be renewed or issued to the following persons under the provisions of this chapter:

(1) Subject to the provisions contained in C.R.S. § 24-5-101, a person who has been convicted of any felony

or any crime which under the laws of the state would be a felony; any crime of which fraud or intent to defraud was an element, whether in the state or elsewhere; any crime of embezzlement or larceny against an employer or business; or any criminal conviction or civil violation related to any law or ordinance pertaining to the pawn industry;

(2) Any person under the age of 18; or

(3) Any person who has made a false, misleading or fraudulent statement on his application for a pawnbroker's license or a manager's certificate.

(f) No employee under 18 years of age shall make loans, purchase any goods or property on behalf of the business or execute any document required to be prepared pursuant to this chapter unless such employee is under the direct supervision of a certified manager who is physically present on the licensed premises.

(Code 1994, § 6.10.050; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-185. Manager or change of manager.

(a) A pawnbroker may employ a manager to operate a pawn brokering business, provided that the pawnbroker retains complete control of all aspects of the pawn brokering business, including, but not limited to, the pawnbroker's right to possession of the premises, his responsibility for all debts and his risk of all loss or opportunity for profit from the business.

(b) A pawnbroker must register every manager whom the pawnbroker employs to operate a pawn brokering business.

(c) In the event a pawnbroker changes the manager of a pawnbroker establishment, the pawnbroker shall immediately report such change and register the new manager on forms provided by the chief of police within 30 calendar days of such change. In no event may a pawnbroker employ a manager who had not been given a manager's certificate.

(d) Failure of a pawnbroker to report a change or failure of the manager to meet the standards and qualification as required in section 8-184 shall be grounds for termination of the pawnbroker's license.

(Code 1994, § 6.10.060; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-186. Renewal.

(a) A pawnbroker's license shall be renewed every three years on forms provided by the chief of police. Renewals shall be processed pursuant to section 8-21.

(b) A manager's certificate shall be renewed annually on forms provided by the chief of police. Renewals shall be processed pursuant to section 8-21.

(Code 1994, § 6.10.070; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-187. Bond required.

(a) Every applicant for a pawnbroker's license shall furnish a bond, valid for the term of the license, with a responsible surety, to be approved by the chief of police, in an amount to be set annually by the city manager in writing, for the benefit of the people of the city, which bond shall be conditioned upon the safekeeping or return of all tangible personal property held by the pawnbroker, as required by law and ordinance, and the compliance with all of the provisions of this chapter.

(b) No license shall be issued or renewed absent such approved bond. Termination or cancellation of an approved bond shall be grounds for summary suspension of the license and for subsequent revocation if a new bond is not furnished within 30 days after demand by the chief of police.

(Code 1994, § 6.10.080; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-188. Approval required; suspension, revocation.

(a) The chief of police shall have final authority to approve or deny any application for a pawnbroker's license. The chief of police in his discretion may issue the license or deny the license application upon the basis of the criteria set forth in this chapter.

(b) The chief of police shall have final authority to approve or deny any application for a manager's certificate. The chief of police in his discretion may issue the license or deny the license application upon the basis of the criteria set forth in this chapter 6.10.

(Code 1994, § 6.10.090; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-189. Required books and records.

(a) Every pawnbroker shall keep books and records sufficient to identify each pledge, contract for purchase or purchase transaction, and each forfeiture of property pursuant to the terms of a contract for purchase. Every customer shall provide to the pawnbroker the following information for such books and/or records:

(1) The customer's name and date of birth.

(2) The current street address, city, state and zip code of the customer's residence.

(3) The customer's identification from:

a. An identification card issued in accordance with C.R.S. § 42-2-302;

b. A valid state driver's license;

c. A valid driver's license containing a picture issued by another state;

d. A military identification card;

e. A valid passport;

f. An alien registration card; or

g. An official identification document lawfully issued by a state or federal government entity.

(b) All transactions shall be kept in a numerical register in the order in which they occur, which register shall show the printed name and signature of the pawnbroker or agent, the purchase price or other monetary amount of the transaction, the date, time and place of the transaction and an accurate and detailed account and description of each item of tangible personal property involved, including, but not limited to, any and all trademarks, identification numbers, serial numbers, model numbers, owner-applied numbers, brand names or other identifying marks on such property. The books and records of the licensee shall also reveal the date on which a contract for purchase was terminated and whether, and by whom, the pawned personal property of the customer was redeemed, renewed or forfeited upon the expiration of the contract for purchase.

(c) If the pawned personal property is redeemed by a person other than the original customer, the person redeeming the property shall provide to the pawnbroker, and the pawnbroker shall record, the following information:

(1) The person's name and date of birth.

(2) The current street address, city, state and zip code of the person's residence.

(3) The person's driver's license number or other identification number from another form of identification which is allowed under subsection (a)(3) of this section.

(4) A notarized permission slip from the original owner authorizing the person to pick the items up.

(Code 1994, § 6.10.100; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-190. Declaration of ownership.

(a) The pawnbroker shall at the time of making the loan contract for purchase or purchase transaction obtain a written declaration of ownership from the customer stating:

(1) Whether the property that is the subject of the transaction is solely owned by the customer and, if not solely owned by the customer, the customer shall attach a power of attorney from all co-owners of the property authorizing the customer to sell or otherwise dispose of the property;

(2) How long the customer has owned the property;

(3) Whether the customer or someone else found the property; and

(4) If the property was found, the details of the finding.

(b) The pawnbroker shall require the customer to sign his name, in the presence of the pawnbroker, on the declaration of ownership and in the register to be kept under this chapter. Each such declaration shall also be signed by the pawnbroker at the time of the transaction. The customer shall be given a copy of the contract for purchase or a receipt for the purchase transaction.

(Code 1994, § 6.10.110; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-191. Video recording/digital camera/internet subscription requirement.

(a) Every pawnbroker shall video record all transactions, including those which do not result in a contract for purchase or purchased transaction. The video recording media shall be in a format approved by the police department and of such quality that it clearly displays an identifiable image of the customer. All such video recording shall be kept by the pawnbroker for a minimum of 90 calendar days and shall be subject to police review immediately upon request in accordance with section 8-203. If the video recording contains photographic evidence of the tangible personal property pledged or attempted to be pledged in any actual or proposed contract for purchase, it shall be held for 180 calendar days.

(b) Every pawnbroker shall take a digital photograph of all customers entering into contracts for purchase with the pawnbroker. The digital photograph shall be attached to the books and records of each pledged property, contract for purchase or purchase transaction and shall be maintained with said document.

(c) Except for pawnbrokers exclusively dealing in the pawn brokering of motor vehicles, every pawnbroker shall own, maintain and operate a computer system with Internet access that includes an Internet subscription service as described herein. Every pawnbroker shall subscribe to LeadsOnline and maintain said subscription service with LeadsOnline during the term of the pawnbroker's license. The pawnbroker shall enter and upload all information from its books and records regarding contracts for purchase, pledges and purchase transactions to LeadsOnline on a daily basis.

(d) The police department shall enter into a contract for service and maintain its contract for service with LeadsOnline in order to enhance its investigative services to protect both the pawnbrokers and members of the general public.

(Code 1994, § 6.10.120; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-192. Requirements for records.

(a) All records required to be kept under this chapter must be kept in the English language, in a legible manner and shall be preserved and made accessible for inspection for a period of three years after the date of redemption or forfeiture and sale of the property. Information from records and fingerprints inspected by the police department pursuant to this chapter shall be used for regulatory and law enforcement purposes only.

(b) Upon the demand of any police department agent, the pawnbroker shall produce and show any tangible personal property given to the pawnbroker in connection with any contract for purchase or purchase transaction. The pawnbroker's books shall list the date on which each contract for purchase was canceled, whether it was redeemed, or forfeited and sold.

(c) Every pawnbroker shall provide the police department with records in a format approved by the police department of all tangible personal property accepted by the pawnbroker pursuant to a contract for purchase or a purchase transaction and copies of each customer's declaration of ownership. The records shall contain the same information required to be recorded in the pawnbroker's copy of contract for purchase pursuant to this section. The required information shall be mailed or otherwise delivered to the police department within seven calendar days of each contract for purchase or purchase transaction. The reporting format of the required information shall be one of the following:

(1) Forms approved by the police department, together with an electronic copy containing the same information in a format approved by the police department; or

(2) Forms approved by the police department and electronic transmission to the police department of the same information in a format approved by the police department.

(Code 1994, § 6.10.130; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-193. Inventory of property held by city.

(a) The police department shall maintain an inventory of property removed by the police department from each pawnbroker location. The inventory shall be maintained to show the property removed from each pawnbroker location and shall include a description of the property, the date removed from the pawnbroker business, the reason why the property is held, any disposition ordered by the court and the police department incident report number assigned in conjunction with the property taken.

(b) The police department shall maintain the property inventories as confidential commercial information and as criminal justice records in accordance with the provisions of C.R.S. §§ 24-72-201 and 24-72-301 et seq. Once each month, the police department shall mail or electronically provide a copy of each location's current inventory held by the police department to the owner of the business operating from that location.

(Code 1994, § 6.10.140; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-194. Pawn tickets.

At the time of making a contract for purchase or upon the subsequent renewal of any contract for purchase, the pawnbroker shall deliver to the customer a pawn ticket which contains the following information: the name and address of the licensee; a description of the pledge sufficient to adequately identify the pledge; the date of the transaction; and the amount, duration and terms of the contract for purchase. The pawnbroker may insert on the pawn ticket any other terms, conditions and information not inconsistent with the provisions of this chapter. The pawnbroker shall retain a duplicate copy of the executed pawn ticket.

(Code 1994, § 6.10.150; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-195. Minimum fixed period of time; maximum fixed price.

(a) No contract for purchase shall be for a fixed period of time of less than 30 calendar days.

(b) No pawnbroker shall ask, demand or receive any fixed price that exceeds 1/5 of the original purchase price for each month plus the amount of the original purchase price.

(Code 1994, § 6.10.160; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-196. Intermediate payments upon loans.

Pawnbrokers shall accept any intermediate payment offered by a customer upon a loan made under a contract for purchase which has not matured, so long as such payment is equal to or greater than ten percent of the fixed price, as defined in section 8-195(b), together with accrued charges. The acceptance of payments in lesser amounts shall be discretionary with the pawnbroker. A receipt showing the date of the payment and the amount shall be given to the customer for all monies received on account of, or in payment of, loans made under a contract for purchase.

(Code 1994, § 6.10.170; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-197. Holding period and sale of tangible personal property.

(a) A pawnbroker shall hold all property purchased by him through a purchase transaction for 30 calendar days following the date of purchase, during which time such property shall be held separate and apart from any other tangible personal property and shall not be changed in form or altered in any other way.

(b) A pawnbroker shall hold all goods received through a contract for purchase within his jurisdiction for a period of ten calendar days following the maturity date of the contract for purchase, during which time such goods shall be held separate and apart from any other tangible personal property and shall not be changed in form or packaged or altered in any way. If the customer has failed or neglected to redeem such property on or before the maturity date of the contract by repayment of the balance of the principal and payment of all accrued interest charges, the pawnbroker shall, immediately upon maturity of the contract, mail with sufficient postage a notice of the impending sale of the property delivered under the contract. Such notice shall be mailed to the customer at the address shown on the contract pertaining to the transaction. Ten calendar days shall be allowed from the date of mailing of the notification for the customer to appear and reclaim the property or make satisfactory payments upon

it. The pawnbroker shall not sell or otherwise dispose of the property prior to the expiration of the ten-day period.

(Code 1994, § 6.10.180; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-198. Hold order.

(a) Any authorized agent of the police department may order a pawnbroker to hold any tangible personal property deposited with or in the custody of any pawnbroker for the purposes of further investigation by the police department. A hold order shall be effective upon verbal notification to the pawnbroker by an authorized agent of the police department and shall be for a period of 30 calendar days. The written hold order shall be provided to the pawnbroker within 24 hours of the verbal notification, unless the end of the twenty-four-hour period falls on a Saturday, Sunday or holiday, in which event the written notification of the hold order shall be provided to the pawnbroker on the following Monday or the next business day following a holiday. No sale or other disposition may be made of any tangible personal property deposited with or in the custody of the pawnbroker while the hold order remains in effect.

(b) Any sale or other disposition of the property after the pawnbroker has been notified by the police department of a hold order shall be unlawful and a violation of chapter 9 of title 1 of this Code.

(Code 1994, § 6.10.190; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-199. Seized property held by police; administrative hearing to determine possession.

When property which was removed from the pawnbroker, his employee, agent or any other person acting on his behalf, either by consent or seized by warrant and held by the police department, as evidence is no longer needed as evidence for further legal proceedings, or is immediately authorized by the District Attorney to be returned to the owner and there is no court order which concerns its disposition, the police department shall notify the pawnbroker, any other person claiming to be the lawful owner of the property and any other person who has notified the police department in writing of his claim of an interest in the property, of the right to an administrative hearing to determine who is entitled to possession of such property. Such notice shall be sent by the police department to such persons by certified mail, return receipt requested. A request for an administrative hearing shall be filed in writing with the police department within 14 days after the date the notice was mailed by the police department. The written request for a hearing must include the person's current address and a daytime telephone number or, in the case of a pawnbroker, his business address and telephone number. Absent any request for a hearing, possession of such seized property shall be restored to the owner.

(Code 1994, § 6.10.200; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-200. Administrative hearings to determine right to possession of personal property.

(a) A hearing to determine the right to possession shall be conducted by the administrative hearing officer within ten calendar days of the police department's receipt of a written request for a hearing unless otherwise set by the administrative hearing officer but, in no event, the date for such hearing shall not exceed 20 calendar days, unless the person requesting the hearing waives the right to a hearing within that period.

(b) The hearing shall be conducted in accordance with the applicable provisions of this Code, chapter 12 of title 2 of this Code, section 8-26 and the administrative hearing rules.

(c) The decision of the administrative hearing officer shall be final and any appeal shall be to the district court in accordance with applicable state law. The property shall be returned to the person determined to have the right to possession within 30 calendar days after the date of the administrative hearing officer's decision or at such time as any appeals have been exhausted.

(Code 1994, § 6.10.210; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-201. Unlawful transactions.

(a) It is unlawful for any pawnbroker, his employee, agent or any other person acting on his behalf to make a contract for purchase, acquire a pawn ticket by transfer or make a purchase transaction with the following:

(1) Any person under 18 years of age;

(2) Any person under the influence of alcohol or any illegal narcotic drug, substance, stimulant or depressant;

(3) Any person the pawnbroker knows and/or whose actions would give the pawnbroker probable cause to believe the tangible property, which is the subject of a contract for purchase or purchase transaction with that customer, was obtained illegally;

(4) Any person in possession of tangible personal property, which is the subject of a contract for purchase transaction, with an identification number thereon which is obscured. For the purposes of this subsection, the term obscure means to destroy, remove, alter, conceal or deface so as to render the identification number illegible by ordinary means of inspection.

(b) With respect to a contract for purchase, no pawnbroker may permit any customer to be obligated on the same day in any way under more than one contract for purchase agreement with the pawnbroker which would result in the pawnbroker's obtaining a greater amount of money than would be permitted if the pawnbroker and customer had entered into only one contract for purchase covering the same tangible personal property.

(c) No pawnbroker shall violate the terms of any contract for purchase.

(Code 1994, § 6.10.220; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-202. Safekeeping; insurance.

Any pawnbroker licensed and operating under the provisions of this chapter shall provide a safe place for the keeping of pledged property received by him, and shall have sufficient insurance on the pledged property held by him for the benefit of the pledgor to pay 50 percent of the fair-market value thereof in case of fire, theft or other casualty loss, which policy shall be deposited with the chief of police or his designee prior to approval of the license. Neither the pawnbroker nor surety shall be relieved from their responsibility by reason of such fire, theft or other casualty loss, or from any other cause, save full performance.

(Code 1994, § 6.10.230; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-203. Inspection of premises, contents and records.

At all times during the term of the license, the pawnbroker shall allow any authorized agent of the police department, or any person authorized at section 8-18, to inspect licenses and businesses, to enter the premises where the licensed business is located, including all off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, wares, merchandise and records therein to verify compliance with this chapter or other applicable laws.

(Code 1994, § 6.10.240; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-204. Hours.

Pawnbroker establishments shall be closed on Sundays and Christmas, Thanksgiving, Labor Day, New Year's Day, Memorial Day and Fourth of July holidays.

(Code 1994, § 6.10.250; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-205. Business limited to one location.

A pawnbroker shall conduct his pawnshop business from only one business location, which shall be the location listed on the pawnbroker's license. This provision shall not prohibit a pawnbroker from using warehouses or other storage locations away from the licensed place of business, but such other location shall be used only if the pawnbroker first submits notice to the police department in writing of such off-site locations. Such off-site locations shall be open to any peace officer for inspection as provided for in section 8-203.

(Code 1994, § 6.10.260; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-206. Location of pawnbroker businesses.

(a) The business premises of a pawnbroker business shall not be located within one mile of the business premises of another pawnbroker business. This restriction shall apply to all pawnbroker business licenses issued under this chapter after the effective date of the ordinance codified herein. This one-mile restriction shall not apply to the renewal of an existing pawnbroker business license nor shall it apply to the issuance of a pawnbroker license for an applicant who has received a city occupancy or sales tax license prior to the effective date of the ordinance codified herein for a structure in which a pawnbroker business shall be located.

(b) For the purpose of this subsection, the distance between pawnbroker businesses shall be measured in a straight line, without regard to intervening structures, objects or city limits, from the property line of one pawnbroker business to the property line of the other pawnbroker business.

(Code 1994, § 6.10.270; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-207. Compliance with all city rules and regulations.

The premises and business shall be operated at all times in compliance with city municipal codes, including, but not limited to, building, sanitation, fire and zone codes, as well as in conformity with business license regulations such as sales tax collected.

(Code 1994, § 6.10.280; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-208. Violations and penalties.

In addition to the revocation, suspension or denial of a license or manager's permit issued, any person, including, but not limited to, any customer or pawnbroker, who violates any of the provisions of this chapter ~~shall be guilty of a misdemeanor punishable~~ commits a misdemeanor infraction and is subject to the punishment prescribed by ~~in accordance with~~ chapter 9 of title 1 of this Code.

(Code 1994, § 6.10.300; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-209. Notice of penalties required.

Every pawnbroker shall conspicuously post a notice, provided by the police department, in a place clearly visible to all customers which sets forth the penalties of this chapter and of C.R.S. § 29-11.9-104 ~~12-56-104(5)~~, concerning false information to a pawnbroker and C.R.S. § 18-4-410, concerning theft by receiving. Such notification shall include information to the effect that stolen property may be confiscated by any peace officer and returned to the rightful owner without compensation to the buyer and may also include any information regarding any reimbursement policy of the pawnbroker regarding confiscation.

(Code 1994, § 6.10.310; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Secs. 8-210--8-226. Reserved.

CHAPTER 7. PRIVATE SECURITY SERVICES*

~~***Editor's note*** — Ord. No. 36, 2016 , §§ 1, 2(exh. A), adopted Dec. 20, 2016, repealed Ch. 6.12, §§ 6.12.010 — 6.12.230, and reenacted a new Ch. 6.12 as set out herein. The former Ch. 6.12 pertained to alarm systems and derived from Ord. 26, 2011 § 1; Ord. 67, 2009 § 1; Ord. 30, 2007 § 1; Ord. 22, 1982 §9(part); Prior Code, §§ 2A-11 — 2A-18, 2A-18.1, 2A-19 — 2A-26.~~

Sec. 8-227. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Breach of the peace means a violation of public tranquility and order. Crimes which are considered crimes of breach of the peace shall be determined by the chief of police and set forth in a rule, regulation or order which shall be available to the public.

Moral turpitude means conduct that is considered contrary to community standards of justice, honesty and good morals. Crimes which are considered moral turpitude shall be determined by the chief of police and set forth in a rule, regulation or order; which shall be available to the public.

Private security services means a person, firm or corporation, including its employees and agents, engaged in the business of providing protection to third persons, firms or corporations, and/or their property and preserving the peace and conduct of any business in the city, but does not mean persons who are employed to provide unarmed internal security for their employer's business.

(1) The definition of the term "private security services" includes, by way of example only and without limitation, all armed private security personnel; guard and patrol services and personnel for hire, investigative services and personnel for hire, vehicle escort services, and alarm services and personnel for hire.

(2) The definition of the term "private security services" does not include, by way of example only and without limitation, unarmed ATM service personnel, or any armored car or armored courier service which is regulated by the Federal Armored Car Industry Reciprocity Act of 1993, as amended.

(Code 1994, § 6.12.010; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-228. Licenses required for private security service, security guard.

(a) It is unlawful for any person, firm or corporation to engage in the business of a private security service or to represent to any person or the public that the person, firm or corporation is a private security service without having first procured a license to operate as a security guard company as provided in this chapter.

(b) It is unlawful for any person, or employee or agent of a person, firm, or corporation, to engage in employment as a security guard or an armed security guard, or to represent himself to any person or the public that the person is a private security guard or armed private security guard without having first procured a license as provided in this chapter. No person who is a peace officer having a valid certification shall be required to obtain a license pursuant to this chapter to engage in off duty employment as a private security service within the jurisdiction of the governmental entity employing him as a peace officer.

(c) The chief of police may, upon written application, grant an exception to the license requirement for security guards or armed security guards if, in the judgment of the chief of police, the exception is reasonable. No exemption granted by the chief of police shall be for the duration of more than 14 calendar days.

(d) It shall be unlawful for any private security service to employ any agent or employee unless the person to be employed has obtained a license as herein provided, or the chief of police has granted an exception to the license requirement. This requirement is not intended to include employees whose job responsibilities are exclusively administrative and not functional; this includes, by way of example only without limitation, secretarial positions.

(e) It shall be unlawful for any person to accept employment as a private security service employee or agent operating within the city, without obtaining a license as herein provided or having been granted an exception by the chief of police. This requirement is not intended to include employees whose job responsibilities are exclusively administrative and not functional; this includes, by way of example only without limitation, secretarial positions.

(Code 1994, § 6.12.020; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-229. Application contents.

(a) Applicants for license as a private security service shall file an application with the chief of police on a form to be provided by him for that purpose, which shall contain the following:

(1) A description of the nature and type of business to be conducted or services to be offered and the area expected to be covered in the conduct of business;

(2) A statement as to the number of persons to be employed as agents or employees;

(3) A statement as to the numbers and type of vehicles to be used in the conduct of the business, and description thereof;

(4) A description of any other equipment to be used in conducting the business;

(5) A statement as to whether any individual applicant, partner of a partnership, manager of a limited liability company, officer, director and holder of ten percent or more of the corporate stock of the corporation, applicant or holder of ten percent or more interest in a limited liability company, any person with a finance interest in the private security firm and all managers of the applicant has ever been convicted of any felony, misdemeanor or ordinance violation involving moral turpitude or a breach of peace, the nature of the offense, penalty or punishment imposed and the date and place where such offense occurred;

(6) A statement as to whether any individual applicant, partner of a partnership, manager of a limited liability company, officer, director and holder of ten percent or more of the corporate stock of the corporation, applicant or holder of ten percent or more interest in a limited liability company, any person with a finance interest in the private security firm and all managers of the applicant has had a driver's license suspended or revoked, a statement as to the nature of the offense or offenses leading to the suspension

or revocation, and the date and place where such offense occurred;

(7) A statement as to whether or not any individual applicant, partner of a partnership, manager of a limited liability company, officer, director and holder of ten percent or more of the corporate stock of the corporation, applicant or holder of ten percent or more interest in a limited liability company, any person with a finance interest in the private security firm and all managers of the applicant has ever had a judgment or conviction for fraud, deceit or misrepresentation entered against him and if so, the details thereof;

(8) A statement as to the business or employment record of any individual applicant, partner of a partnership, manager of a limited liability company, officer, director and holder of ten percent or more of the corporate stock of the corporation, applicant or holder of ten percent or more interest in a limited liability company, any person with a finance interest in the private security firm and all managers of the applicant for the ten years immediately preceding the date of application of the applicant;

(9) A certificate showing satisfactory completion by all of its managers and security guard employees of an approved and generally accepted private security training course consisting of at least 24 hours of instruction or an acceptable equivalent amount of training as determined by the chief of police. Acceptable course of instruction shall include and address legal powers, limitations on the use of deadly force in general, and the use of deadly force specifically;

(10) Written consent to a background check signed by any individual applicant, partner of a partnership, manager of a limited liability company, officer, director and holder of the ten percent or more of the corporate stock of the corporate applicant or holder of ten percent or more interest in a limited liability company, any person with a financial interest in the private security firm, and all managers of the private security firm which background check shall be a prerequisite to obtaining a license under this section.

(b) Applicants for license as a security guard or an armed security guard shall file an application with the chief of police on a form to be provided by him for that purpose, which shall contain the following:

(1) The name of the company employing the applicant or a description of the nature and type of business to be conducted or services to be offered and the area expected to be covered in the conduct of business;

(2) A statement of the applicant's intention relative to carrying a firearm;

(3) If the applicant is to be employed by any other firm, corporation or person, the identity of the employer shall be stated, together with the nature of services to be rendered to the employer and any other pertinent facts required by the chief of police;

(4) The statement as to whether the applicant has ever been convicted of any felony, misdemeanor or violation of the laws or ordinances of any jurisdiction ~~ordinance violation~~ involving moral turpitude or a breach of peace, the nature of the offense, penalty or punishment imposed and the date and place where such offense occurred;

(5) A statement as to whether the applicant has had a driver's license suspended or revoked, a statement as to the nature of the offense or offenses leading to the suspension or revocation, and the date and place where such offense occurred;

(6) A statement as to whether or not the applicant has ever had a judgment or conviction for fraud, deceit or misrepresentation entered against him and if so, the details thereof;

(7) A statement as to the business or employment record of the applicant for the ten years immediately preceding the date of application of the applicant;

(8) If applying to be an armed private security guard, a certificate of a licensed physician reciting that the applicant has been examined by him of her within the 60 days preceding the application date and was found to be able to satisfactorily perform the duties required as an armed private security service employee;

(9) A certificate showing satisfactory completion of an approved and generally accepted private security training course consisting of at least 24 hours of instruction or an acceptable equivalent amount of training as determined by the chief of police, acceptable course of instruction shall include and address

legal powers, limitation on the use of deadly force in general, and the use of deadly force specifically;

(10) Written consent to a background investigation, which background investigation shall be a prerequisite to obtaining a license under this section.

(Code 1994, § 6.12.030; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-230. Issuance; term; renewal.

The chief of police shall issue licenses to applicants who are eligible to be licensed under the terms and provisions of this chapter. Such licenses shall be issued for a maximum of one year. Licensees desiring the renewal of their licenses must apply for renewal within the 30 days immediately preceding the expiration date. As a part of the license renewal process, the licensee must demonstrate documentation of the receipt of no less than 24 hours of additional in-service training during the previous year.

(Code 1994, § 6.12.040; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-231. Fee.

(a) The annual license fee for private security services, security guard, and armed security guard shall be set in writing annually by the city manager.

(b) In addition to the fee set forth above, any applicant shall be responsible for payment of the costs of the background investigation, whether such background investigation is completed by the police department or by another entity.

(Code 1994, § 6.12.050; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-232. Conditions barring issuance.

No license for private security services, security guards, or armed security guards shall be issued to the following:

(1) Any person under 18 years of age, or to any corporation, partnership, or limited liability company who maintains a partner, manager, officer, director of holder of ten percent or more of the corporate stock interest, or any manager who is under 18 years of age;

(2) Any person who has been convicted of a felony, misdemeanor or violation of the laws or ordinances of any jurisdiction pertaining to moral turpitude or breach of the peace in the ten years immediately preceding the date of application; or to any corporation, partnership, or limited liability company who maintains a partner, manager, officer, director of holder of ten percent or more of the corporate stock interest, or any manager who has been convicted of a felony, misdemeanor or violation of the laws or ordinances of any jurisdiction pertaining to moral turpitude or breach of the peace in the ten years immediately preceding the date of application;

(3) Any person against whom judgment or conviction for fraud, deceit or misrepresentation has been entered within ten years immediately preceding the application; or to any corporation, partnership, or limited liability company who maintains a partner, manager, officer, director of holder of ten percent or more of the corporate stock interest, or any manager against whom judgement or conviction for fraud, deceit, or misrepresentation has been entered within ten years immediately preceding the application;

(4) Any person who has been convicted of a felony relating to controlled substances or illegal drugs in the ten years immediately preceding the date of the application; or to any corporation, partnership, or limited liability company who maintains a partner, manager, officer, director of holder of ten percent or more of the corporate stock interest, or any manager who has been convicted of a felony relating to controlled substances or illegal drugs in the ten years immediately preceding the date of the application;

(5) Any person who currently has a suspended or revoked license, or had had a driver's license suspended or revoked in the prior three years;

(6) Any person who has a conviction for any violent acts against persons; or to any corporation, partnership or limited liability company who maintains a partner, manager, officer, director of holder of ten percent or more of the corporate stock interest, or any manager who had a conviction for any violent acts against

persons;

(7) Any person who fails to comply with all license requirements.

(Code 1994, § 6.12.060; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-233. Suspension and revocation.

(a) The chief of police shall have the power to suspend or revoke any license granted under this chapter for violation of any federal or state statute, city ordinances or any of the provisions of this chapter, or for any act committed by the licensee which is detrimental to the health, welfare and safety of the public. It shall be considered a violation of a federal or state statute or city ordinance if charges are filed in any court; if the licensee is acquitted of the charge, he shall be reinstated as a licensee under this chapter upon application to the chief of police.

(b) No further application of any person whose license has been revoked shall be accepted by the chief of police until at least one year has elapsed since the last previous revocation.

(c) In the event that a license expires while under suspension, no renewal license shall be issued until the end of the suspension.

(d) Any person aggrieved by the action of the chief of police in the denial, suspension or revocation of a license, as provided in this chapter, may appeal as provided in chapter 1 of this title.

(Code 1994, § 6.12.070; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-234. Authority of chief of police.

The chief of police may issue and promulgate, from time to time, rules and regulations to provide for the health, safety and welfare of the city in relation to the private security service. Such rules may pertain by way of example to the duties of the licensees, manner of conduct and reports to be furnished to the chief of police.

(Code 1994, § 6.12.080; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-235. Inspection by police.

A licensee shall be subject to inspection as to his activities and duties by the chief of police or any police officer of the city.

(Code 1994, § 6.12.090; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-236. Identification card.

(a) In addition to the license, the chief of police shall issue to each licensed security guard or armed security guard an identification card which shall include the following:

(1) Name, address, physical description and picture of the licensee;

(2) The name of the employer if the licensee is an employee or agent;

(3) Signature of the licensee and that of the chief of police;

(4) A statement as to whether or not the licensee is authorized to carry firearms; and

(5) The expiration date of the license and such other information as the chief of police may deem advisable.

(b) The identification card shall be displayed by a security guard on his person at all times while on duty.

(Code 1994, § 6.12.100; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-237. Approval of uniforms, badges and insignia.

The chief of police or his designee shall approve all uniforms, badges and insignia used by all private security services, agents and employees. Such uniforms, badges and insignia shall not be substantially similar to or a colorable imitation of any uniforms, badges or insignia used by the city police.

(Code 1994, § 6.12.110; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-238. Vehicles; lights or sirens; insignia.

Any vehicles used by a private security service; agents or employees within the city shall be of a color

approved by the chief of police or his designee and shall be distinguishable from all vehicles used by the police department. In addition, the vehicles shall not be equipped with any lights or sirens in violation of the city traffic code or the state motor vehicle department, nor shall any insignia be painted on the sides thereof which are substantially similar to or which could be confused with that painted on the sides of the vehicles of the police department. Whenever a new vehicle is acquired by a licensee for use in the conduct of his business, the type and description shall be immediately reported to the chief of police.

(Code 1994, § 6.12.120; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-239. Certain titles prohibited.

The term "police" or "officer" or any other terms that may be confused to indicate any connection with the police department shall not be used by any private security service, agent or employee.

(Code 1994, § 6.12.130; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-240. Firearms; grant of authority, training required.

A security guard licensee shall be authorized to carry firearms only when specifically authorized by the chief of police. An applicant shall not be considered for authorization to carry a firearm unless the applicant is at least 21 years of age and has presented a physician's certificate as required by section 8-229(10). Prior to authorization, a licensee must present a certificate of satisfactory completion of an approved and generally accepted firearms training course; such training course shall consist of a minimum of 16 hours of instruction and qualification with the firearm to be carried. To renew a license with authorization to carry a firearm, the licensee must present a certificate of satisfactory completion of an approved firearms refresher course that consists of a minimum of four hours of instruction and qualification with the firearm to be carried.

(Code 1994, § 6.12.140; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-241. Authority to carry firearms limited.

The authority to carry firearms shall be extended for those times only while the licensee is performing the required duties of his employment and while en route to and from his place of business.

(Code 1994, § 6.12.150; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-242. Cessation of work; notice.

Whenever a security guard, armed security guard, agent or employee is discharged for any reason or ceases to be employed as a security guard, or armed security guard, immediate notification shall be given to the chief of police.

(Code 1994, § 6.12.160; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-243. Identification card; surrendered, reissue upon reemployment.

When any security guard, armed security guard, agent or employee ceases to be employed as a private security guard or armed security guard, he shall forthwith surrender his identification card. In the event the person surrendering his identification card is reemployed or conducts a business as a private security service or guard for the remainder of the year, the identification card may be reissued to him without charge.

(Code 1994, § 6.12.170; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-244. Changes of address; notice.

Any licensee changing place of business or abode shall immediately notify the chief of police of such fact, together with the address of the new place of business or abode; provided, however, that in the event the licensee changes his place of abode, this is not a transfer of a license and does not require the payment of any additional fees.

(Code 1994, § 6.12.180; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-245. Unlawful acts; arrest.

It is unlawful for a licensee to arrest any person except when that person commits a criminal offense in the

presence of the licensee and the arrest conforms to a citizen's arrest in accordance with the laws of the state.

(Code 1994, § 6.12.190; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-246. Arrested person turned over to police.

It is unlawful for a licensee to fail to turn over any person arrested, as provided in this chapter, immediately to the police department.

(Code 1994, § 6.12.200; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-247. Firearm acts unlawful.

It is unlawful:

(1) For any licensee to carry a firearm without having successfully completed the prescribed training or without designation on his license while in the performance of duties as a private security service, agent or employee;

(2) For any licensee to fire or draw firearms in the performance of his duties except when necessary to protect himself from serious bodily injury or death or to prevent the commission of a felony involving serious bodily injury or death;

(3) For any licensee who fires a firearm within the city to fail to promptly report such incident to the police department.

(Code 1994, § 6.12.210; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-248. Police investigations.

It is unlawful for a licensee to enter or interfere with any investigation of the jurisdiction of the police department.

(Code 1994, § 6.12.220; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-249. Reporting violations.

It is unlawful for any licensee to fail to report immediately to the police department all violations of city, state or federal ordinances and laws which constitute felonies or breach of the peace coming to his attention.

(Code 1994, § 6.12.230; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-250. Authorized uniforms, badges and insignia.

It is unlawful for a licensee to wear a uniform, badge or insignia other than that authorized by the chief of police.

(Code 1994, § 6.12.240; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-251. Liquor establishments; events.

It is unlawful for a licensee under the age of 21 years to work at a liquor-licensed establishment or event.

(Code 1994, § 6.12.245; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-252. Misrepresentation as police officer.

It is unlawful for a licensee to represent himself to be an officer of the police department or any other law enforcement agency.

(Code 1994, § 6.12.250; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-253. Conduct, generally.

It is unlawful for a licensee to fail to conduct himself in a lawful and orderly manner at all times.

(Code 1994, § 6.12.260; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Sec. 8-254. Penalty.

Any person, partnership, corporation, limited liability company, or other business entity who violates any

provision of this chapter shall be guilty of a misdemeanor infraction and upon conviction thereof shall be punished as provided in chapter 9 of title 1 of this Code. Every day of such violation shall constitute a separate offense.

(Code 1994, § 6.12.270; Ord. No. 36, 2016, §§ 1, 2(exh. A), 12-20-2016)

Secs. 8-255--8-271. Reserved.

CHAPTER 8. AMUSEMENT RIDES AND ATTRACTIONS

Sec. 8-272. General responsibility for compliance.

(a) Every owner or operator of an amusement ride or amusement attraction permanently or temporarily erected at carnivals, fairs and amusement parks in the city shall comply with the provisions of this chapter.

(b) In addition, an amusement ride or amusement attraction in the city shall be in compliance with state law not inconsistent with this chapter, including 7 C.C.R. 1101-12 (Amusement Rides and Devices Regulations).

(c) Any amusement ride or attraction which is not in compliance with these standards shall not be used or occupied until brought into compliance.

(Code 1994, § 9.40.010; Ord. No. 51, 1983, § 1(part), 8-16-1983; Ord. No. 41, 2016 , § 1, 12-20-2016)

Sec. 8-273. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement attraction means a building or structure around, over or through which people may move or walk, without the aid of any moving device integral to the building or structure, that provides amusement, pleasure, thrills or excitement. The term "amusement attraction" does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion or the arts.

Amusement ride means a device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area, for the purpose of giving its passengers amusement, pleasure, thrills or excitement.

Containing device means a strap, belt, bar, gate or other safety device designed to prevent accidental or inadvertent dislodgement of a passenger from a ride or attraction but which does not actually provide physical support.

Exit means a doorway or other opening affording safe and unobstructed access to a safe area.

National Electrical Code means the Nation's Electrical Code, ANSI/NFPA No. 70, as adopted in article 1 of chapter 11 of title 22 of this Code.

Operator means a person actually engaged in or directly controlling the operation of an amusement ride or attraction.

Owner means a person who owns an amusement ride or attraction, or the lessee if the amusement ride or attraction is leased and includes the state or its political subdivision.

Restraining device means a safety belt, harness, chain, bar or other device which affords actual physical support, retention or restraint to the passenger of a ride or attraction.

Rope and *wire rope* mean the same but does not include fiber rope.

Safety retainer means a secondary safety wire rope, bar, attachment or other device designed to prevent parts of a ride or attraction from becoming disengaged from the mechanism or from tipping or tilting in a manner to cause hazard to persons riding on, or in the vicinity of, a ride or attraction.

(Code 1994, § 9.40.020; Ord. No. 51, 1983, § 1(part), 8-16-1983)

Sec. 8-274. Safety requirements.

(a) *General*. All amusement rides and attractions subject to the provisions of this article shall be maintained and operated in such a manner as to ensure the safety of persons in, on or around such ride or attraction and shall

comply with all manufacturers' safety precautions and requirements.

(b) *Medical and first aid*. The owner shall ensure the availability of medical aid. In the absence of an infirmary, clinic or hospital used for the treatment of an injured person in the near proximity of the amusement rides and attractions, a person or persons shall be adequately trained to render first aid.

(c) *Hazardous conditions*. During a lightning storm, period of tornado warning, severe storm warning, fire or when violence, riot or civil disturbance occurs or threatens in or to an amusement park or a carnival lot, passengers shall be unloaded or evacuated from a ride or attraction and the ride or attraction closed down and secured immediately. Operations shall not resume until the situation has returned to a safe condition.

(d) *Illumination*. Access to and exits from amusement rides and attractions erected permanently or temporarily at carnivals, fairs and amusement parks shall be provided with illumination by natural or artificial means of no less than five footcandles measured at grade level. No less than ten footcandles of illumination shall be provided at all work levels for assembly and disassembly of amusement rides and attractions and temporary structures.

(e) *Hazardous materials*. The owner or operator shall store and handle liquid petroleum gases and flammable liquids utilized either as fuel for internal combustion engines, for heat or for illumination in a manner approved by the fire prevention officer. Bulk storage (quantities above 50 gallons) shall not be permitted in any area accessible to the public.

(f) *Fire extinguishers*. The owner or operator shall provide an adequate number of fire extinguishers. The selection, placement and maintenance of fire extinguishers shall be in accordance with the uniform fire code.

(g) *Flammable waste materials*. The owner or operator shall provide identified covered metal containers for flammable waste such as oily rags and other flammable materials. The containers shall be kept in easily accessible locations and shall be located so that they will not obstruct means of ingress, egress or aisles.

(h) *Safety devices*. Retaining, restraining and containing devices shall be inspected by the owner or operator to ensure they can continuously fulfill their function. Worn and damaged areas shall be repaired immediately or shall be immediately replaced. The operator shall ensure all such devices are used and securely locked in place during operation.

(i) *Owner shall ensure operator knowledge*. The owner shall ensure that all operators have a thorough knowledge of the ride or attraction they are operating and the applicable emergency procedures pertaining thereto.

(Code 1994, § 9.40.030; Ord. No. 51, 1983, § 1(part), 8-16-1983)

Sec. 8-275. Maintenance requirements.

All maintenance requirements contained hereunder shall include, but not be limited to, the following:

(1) *Daily inspections*. The amusement rides and amusement attractions shall be inspected each day they are intended to be used. This inspection shall be made by the owner or operator who shall be experienced and instructed in the proper assembly and operation of the rides or attractions put into normal operation. The inspection and test shall include the operation of control devices, speed-limiting devices, brakes and other equipment provided for safety. A record of each inspection and test shall be made at once upon completion of the test upon forms provided by the director of inspection and shall be kept with the ride or attraction or at a central location in the midway and available to the city Inspector or his representative.

(2) *Worn mechanical parts and machinery shall be periodically inspected for loose fasteners*. Lockout devices shall be engaged before inspecting or servicing a piece of equipment. Equipment and structures for amusement rides, amusement attractions and concession booths shall be kept free from protruding nails, loose nails, splintered wood, loose and wobbly seats, and rough, loose or dangerous arm rests.

(3) *Maintenance*. Every owner or operator shall perform manufacturers' recommended maintenance procedures at intervals and in a manner specified by the operation and maintenance manual, in the following general areas: lubrication; air and hydraulic systems; torqueing of bolts; wear of bolted or pinned joints; adjustments and care of mechanical components such as brakes, clutches and air compressors; passenger securing devices; crowd control devices; operating and emergency controls; electrical systems and factory installed safety devices.

(4) *Wire rope*.

a. Wire rope shall be thoroughly examined. Wire rope found to be worn or damaged shall be replaced with new rope of proper design and capacity as per the manufacturer's recommendations for replacement.

b. Wire ropes used to support, suspend, bear or control forces and weights involved in the movement and utilization of tubs, cars, chairs, seats, gondolas, other carriers, the sweeps or other supporting members of a ride or attraction shall not be lengthened or repaired by splicing.

(5) *Wire rope rollers, drums and sheaves*. Mechanical devices that brake, control or come in contact with wire rope, such as rollers, drums and sheaves, shall be examined on a periodic basis to ensure cleanliness and safe condition. Mechanical devices with broken chips, undue roughness or uneven wear shall be replaced immediately.

(6) *Wood components*. Footings, splices, uprights, track timbers, ledgers, sills, laps, bracing, flooring and all other wood components of rides, attractions and structures shall be inspected for deterioration, cracks or fractures. Emphasis shall be given to ensuring tight nails, bolts, lag bolts and other fasteners. A minimum of 18 inches of soil, with respect to grade, shall be removed around piling or wood members embedded in dirt for support to check deterioration. When wood piling requires replacement, ground level concrete piers shall be used. Wood members found to be defective shall be removed and replaced with material of equal or greater strength and capacity. Repairs and replacements to roller coasters shall be made in accordance with the recommendations of the manufacturer.

(7) *Articulations and bearings*.

a. The articulation pinions, frames, sweeps, eccentrics and other mechanical members shall be inspected for wear, out-of-round, cracks and other signs of deterioration, and shall be kept in good repair.

b. Bearing surfaces, ball joints and other single or multiple direction mechanical surfaces shall be kept well lubricated, clean and inspected for out-of-round or out-of-spherical and shall be kept in good repair.

c. Gear alignment and gear drives shall be kept in good repair.

(8) *Hydraulic systems*. All systems shall be checked for leaks, damaged pipes and worn or deteriorated hoses.

(Code 1994, § 9.40.040; Ord. No. 51, 1983, § 1(part), 8-16-1983)

Sec. 8-276. Structural requirements.

Structural materials, construction and design of rides and attractions shall conform to recognized manufacturers' practices, procedures, standards and specifications.

(Code 1994, § 9.40.050; Ord. No. 51, 1983, § 1(part), 8-16-1983)

Sec. 8-277. Electrical requirements.

(a) All electrical conductors and equipment shall conform to the requirements of the edition of the National Electrical Code adopted in article 1 of chapter 11 of title 22 of this Code. Motor wiring, general service circuitry, decorative wiring and festoon wiring shall be inspected for insulation wear, fraying or other signs of deterioration such as cracking. Secure tape repairs may be used; however, use of tape repairs shall be kept to a minimum. Wire clips on articulating devices shall be kept in good repair, and wires at elbows and at the end of articulating devices shall be emphasized during inspections.

(b) Under no conditions will electrical junction boxes or equipment be exposed to the public. Electrical cables shall be secured, buried, covered or otherwise protected to prevent tripping hazards. All access to electrical equipment will be strictly controlled by the owner.

(Code 1994, § 9.40.060; Ord. No. 51, 1983, § 1(part), 8-16-1983)

Sec. 8-278. Operation.

(a) The owner shall ensure that every operator have knowledge of the use and function of all normal operating controls, signal systems and safety devices applicable to the ride or attraction and of the proper use, function, capacity and speed of the particular ride or attraction which is being operated. An operator shall be in the immediate vicinity of the operating controls during operation and shall have complete control of the ride or attraction at all times that it is being operated for the public's use. When the ride or attraction is closed down, provision shall be made to prevent operation by unauthorized persons.

(b) No person other than the operator shall be permitted to handle the controls during normal operation. This provision does not apply to amusement rides or attractions designed to be operated or controlled by a passenger.

(c) Signal systems.

(1) Signal systems shall be provided and utilized for controlling, starting and stopping a ride or attraction when the operator of the ride or attraction does not have a clear view of the point where passengers are loaded or unloaded.

(2) Signal systems shall be tested each day before operation of the ride or attraction. A ride or attraction requiring a signal system shall not be operated if the system is not performing correctly. Signals for the movement or operation of an amusement ride or attraction shall not be given until all passengers and other persons who may be endangered are in a position of safety.

(d) Overspeeding and overloading. A ride or attraction shall not be loaded beyond its rated capacity or be operated at an unsafe speed or at any speed other than that prescribed by the manufacturer. When this information is not obtainable, the criteria for safe operation speeds and rate capacity shall be established by the city inspection department.

(e) Access, egress, and walking surfaces.

(1) *General requirements*. Safe and adequate means of access to and egress from amusement rides or attractions and temporary structures shall be provided. The means of access and egress shall have:

a. Protection from adjacent hazards or from falling by the use of guard rails, enclosures, barriers or similar means;

b. Secure treading and supporting surface free from debris, obstruction, projections and slipping, tripping and other hazards;

c. Adequate clearance.

(2) *All passageways shall be kept free from debris, obstructions, projections and other hazards*. All surfaces shall be such as to prevent slipping and tripping, and floors shall be kept free of protruding nails, splinters, holes or loose boards. Where mechanical handling equipment is used, sufficient safe clearances shall be allowed for passageways.

(f) Stairways, landings and ramps.

(1) Adequate stairways or ramps and the necessary landings and platforms shall be provided, where people enter or leave a ride or attraction which is above or below grade or floor level, at the entrance to or the exit from such amusement rides or attractions. All stairs with more than one step riser shall have standard handrails or railings on both sides regardless of width, and when stairways are 88 inches or greater in width, a railing shall be placed approximately in the center.

(2) Design of stairways, landings and ramps. Stairways, landings and ramps shall be designed, constructed and maintained so as to sustain safely a live load of at least 425 pounds per square foot.

(3) Stairways and ramps. Stairways and ramps shall be of uniform depth and the risers of uniform height.

(g) Exits. At least two exits remote from each other shall be provided from each floor, tier, room or balcony in structures which contain amusement rides or attractions. An exit shall not be less than 22 inches wide.

(Code 1994, § 9.40.070; Ord. No. 51, 1983, § 1(part), 8-16-1983)

Sec. 8-279. Penalty.

Any person violating any provision of this chapter ~~shall be guilty of~~ commits a misdemeanor infraction and ~~punished pursuant to~~ is subject to the punishment prescribed by chapter 9 of title 1 of this Code.

(Code 1994, § 9.40.080; Ord. No. 51, 1983, § 1(part), 8-16-1983)

Secs. 8-280--8-306. Reserved.

CHAPTER 9. SALE OF TOBACCO PRODUCTS

Sec. 8-307. Definitions.

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

Minor shall mean any natural person who is under 18 years of age.

Public place shall mean any area or premises open to the public, including, but not limited to, restaurants, retail stores, laundromats, theaters, banks, public conveyances, educational facilities, recreational facilities, hospitals, nursing homes, auditoriums, arenas, malls, meeting rooms, bars, taverns, hotels, motels, grocery stores, convenience stores, gas stations, department stores and office buildings.

Tobacco products shall mean any substance containing tobacco leaf, including, but not limited to, cigarettes, clove cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, smokeless tobacco and dipping tobacco.

Vending machine shall mean any mechanical, electrical or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses products.

(Code 1994, § 9.49.010; Ord. No. 59, 1998, § 1, 10-6-1998)

Sec. 8-308. Sale of tobacco products.

(a) No person shall sell, offer for sale, distribute, dispense or give away tobacco products in a public place by or from a vending machine.

(b) No person shall permit a vending machine that dispenses tobacco products to be located, installed, kept or maintained in any public place owned or leased by such person.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, tobacco products may be sold through a vending machine located in a public place where access by minors is prohibited.

(d) Every person in charge or control of a retail business of any kind shall stock and display all tobacco products in such business in a manner so as to make all such tobacco products reasonably inaccessible to customers, thereby requiring a direct, face-to-face exchange of the tobacco product from an employee of the business to the customer. No tobacco products are to be sold or displayed on countertops within physical reach of customers. The provisions of this subsection shall not apply to vending machines and to self-service displays of tobacco products that are located in a public place where access by minors is prohibited.

(Code 1994, § 9.49.020; Ord. No. 59, 1998, § 1, 10-6-1998)

Sec. 8-309. Penalties.

(a) Each day that a person violates any part of this chapter 9 shall be considered as a separate and distinct violation.

(b) Any violation of this chapter 9 is punishable pursuant to chapter 9 of title 1 of this Code. Any violation shall carry a minimum fine of $250.00.

(Code 1994, § 9.49.030; Ord. No. 59, 1998, § 1, 10-6-1998)

Secs. 8-310--8-336. Reserved.

CHAPTER 10. PROHIBITION OF COMMERCIAL DISTRIBUTION OF FREE CIGARETTES AND TOBACCO PRODUCTS

Sec. 8-337. Definitions.

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

Cigarette means:

(1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is intended to be offered to or purchased by consumers as a cigarette.

Commercial means business or enterprise for profit.

Coupon means anything that can be exchanged for or used to acquire a free cigarette or tobacco product, such as a printed piece of paper, voucher, ticket, rebate, rebated offer, check, credit, token, code, password or anything labeled "coupon" or "coupon offer."

Nonsale commercial distribution means the commercial distribution of cigarettes, tobacco products or tobacco coupons by any tobacco manufacturer, wholesaler or retailer or any person, agent or employee representing tobacco manufacturers, wholesalers or retailers without cost or expense to the recipient.

Person means any natural person, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee or any other business entity.

Public place means any place within the jurisdictional limits of the city, publicly or privately-owned, that is open to the public, regardless of any fee or age requirement, including, but not limited to, bars, restaurants, clubs, stores, stadiums, parks, playgrounds, sidewalks, taxis and buses; and means any place used by a membership association or club at which nonmember guests are present or permitted, including, for example, fraternity and sorority houses.

Tobacco product means:

(1) Any substance containing tobacco leaf, including, but not limited to, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus or any other preparation of tobacco other than a cigarette; and product or formulation of matter containing biologically active nicotine that is manufactured, sold, offered for sale or otherwise distributed with the expectation that the product or matter will be introduced into the human body other than:

   a. A cigarette; or

   b. Any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco product dependence.

(2) Any product that is promoted to be smoked or used as tobacco, including, but not limited to, herbal shisha for hookah pipes.

(Code 1994, § 9.50.010; Ord. No. 71, 2007, § 1, 12-4-2007)

Sec. 8-338. Prohibition of commercial nonsale distribution of cigarettes and tobacco products.

(a) No person, including, but not limited to, tobacco manufacturers, wholesalers, retailers or any agent or employee representing said manufacturers, wholesalers or retailers, shall engage in the nonsale commercial distribution of any cigarette, tobacco product or coupon.

(b) No person shall permit the commercial nonsale distribution of any cigarette, tobacco product or coupon:

(1) Anywhere in any public place under the legal control of the person; or

(2) Through any agent or employee of the person.

(Code 1994, § 9.50.020; Ord. No. 71, 2007, § 1, 12-4-2007)

Sec. 8-339. Enforcement.

(a) The city manager shall be responsible for enforcing this chapter. Any city police officer or city code enforcement official may enforce this chapter.

(b) Violations of this chapter shall be prosecuted under the procedures provided in chapter 10 of title 1 of this Code.

(Code 1994, § 9.50.030; Ord. No. 71, 2007, § 1, 12-4-2007)

Secs. 8-340--8-366. Reserved.

CHAPTER 11. REFUSE HAULERS

Sec. 8-367. State authority required; residents hauling own refuse excepted.

No person, firm or corporation may collect, transport or remove refuse within the city without having first obtained current authority to do so from the public utilities commission and having first registered such current authority with the director of finance; provided, however, that this prohibition does not apply to any resident of the city who, with his own conveyance removes his own refuse or ashes from his own premises.

(Prior Code, § 13-106; Code 1994, § 9.08.010; Ord. No. 33, 1980, § 4, 5-20-1980; Ord. No. 42, 2016 , § 1(exh. A), 12-20-2016)

Sec. 8-368. License required.

All refuse haulers who collect, transport or remove refuse, garbage or ashes within the city shall be required to have a license to do business within the city as provided for in chapter 2 of this title.

(Prior Code, § 13-107; Code 1994, § 9.08.020; Ord. No. 33, 1980, § 5, 5-20-1980; Ord. No. 42, 2016 , § 1(exh. A), 12-20-2016)

Sec. 8-369. Vehicles; requirements.

Every person, firm or corporation collecting, transporting or removing refuse within the city shall use a packer-type truck or vehicle or a truck or vehicle equipped with a tight metal lining or side frames and with a flame-proof tarpaulin or other cover so attached to such vehicle as to prevent the loss of any of the contents therefrom.

(Prior Code, § 13-108; Code 1994, § 9.08.030; Ord. No. 33, 1980, § 6, 5-20-1980)

Sec. 8-370. Identification; filing descriptions.

Every duly authorized person, firm or corporation using a truck or vehicle to haul, collect or remove refuse shall identify such truck or vehicle in the manner required by law or by rule or regulation of the state public utilities commission. A description of every truck or vehicle so used, together with the state registration number thereof as well as the public utilities commission identification, shall be filed by every such person, firm or corporation with the finance director.

(Prior Code, § 13-109; Code 1994, § 9.08.040; Ord. No. 33, 1980, § 6, 5-20-1980)

Sec. 8-371. Collection of refuse by other authorized personnel prohibited; exceptions.

The city, by and through its duly authorized agents, employees, contractors or city-licensed operators, shall be the sole agency for the collection and disposal of refuse, and no person except such duly authorized agents, employees, contractors or city-licensed operators of the city shall collect or dispose of any refuse, whether his own or another's, within the city. Nothing in this environmental sanitation code shall relieve any contractor of the obligation of cleaning up premises after completion of his contract. Nothing in this environmental sanitation code shall prevent an individual from hauling his own waste material, provided that it is properly disposed of in conformity with this environmental sanitation code and a permit is obtained as provided.

(Prior Code, § 13-136; Code 1994, § 9.08.05)

Secs. 8-372--8-400. Reserved.

CHAPTER 12. TREE TRIMMERS

Sec. 8-401. Trimming or felling trees; license required.

No person or firm shall engage in the business of trimming or removing trees in the city without first obtaining a license to conduct such business pursuant to section 8-90. The business described in this chapter shall be referred to as tree trimming and all persons and firms engaging in that business shall be known as tree trimmers.

(Code 1994, § 13.41.010; Ord. No. 37, 2016 , § 1(exh. A), 12-20-2016)

Sec. 8-402. Rules, regulations and specifications; cease-and-desist order.

The city manager or his designee shall have authority to promulgate rules, regulations and specifications pertaining to the required method of carrying on the business of tree trimming. The city manager or his designee shall issue a cease-and-desist order to any tree trimmer engaging in the business of tree trimming contrary to any such rules, regulations and specifications. Any tree trimmer who violates the terms of the cease-and-desist order is guilty of a misdemeanor offense and shall be subject to the punishment provided by chapter 9 of title 1 of this Code.

(Code 1994, § 13.41.020; Ord. No. 37, 2016 , § 1(exh. A), 12-20-2016)

Secs. 8-403--8-432. Reserved.

CHAPTER 13. ALCOHOL BEVERAGES

ARTICLE I. LOCAL LICENSING AUTHORITY; DEFINITION

Sec. 8-433. State law applicable.

C.R.S. title 44, arts. 3, 4 and 5 and the Rules and Regulations of the executive director of the state department of revenue, as the state licensing authority, effective October 1, 2018, with all subsequent supplements thereto, are adopted by the city. A copy of these provisions is on file with the city clerk and is available for inspection. The same is incorporated and adopted as if fully set out in this chapter, except as otherwise provided in this chapter.

(Code 1994, § 6.16.010; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 1, 2003, § 1, 1-7-2003; Ord. No. 7, 2019, § 6.16.010, 2-19-2019)

Sec. 8-434. Licensing authority established.

(a) There is established a local licensing authority, which shall be a hearing officer appointed by the city council by resolution, which shall have and is vested with the authority to grant or refuse licenses for the sale at retail of malt, vinous or spirituous liquors and fermented malt beverages (collectively referred to herein as alcohol), as provided by law, conduct investigations as are required by law, and suspend or revoke such licenses for cause in a manner provided by law. Such authority shall have all of the powers of the local licensing authority, as set forth in C.R.S. title 44, arts. 3, 4 and 5.

(b) The hearing officer shall be appointed by the city council by resolution and may be removed with or without cause by a majority vote of the city council.

(Code 1994, § 6.16.020; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 10, 2001, § 1(part), 1-16-2001; Ord. No. 7, 2019, § 6.16.020, 2-19-2019)

Sec. 8-435. Definition.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcohol means malt, vinous or spirituous liquors and fermented malt beverages, as those terms are defined by state law.

Applicant means one making an application for a license under this chapter, and includes:

(1) If an individual, that person making the application;

(2) If a partnership, all the partners of the partnership which is making the application;

(3) If a corporation, any officer, director, manager or stockholder therein making the application; or

(4) If a limited liability company, any member therein making the application.

Authority or *licensing authority* means the hearing officer appointed by the city council by resolution.

Fermented malt beverage has the same meaning as set forth in the Colorado Beer Code.

Hearing officer means the individual, licensed to practice law in the state, appointed by the city council, to carry out the duties as described in section 8-343 and other rules, regulations, policies and procedures as may be established.

Malt, vinous, and spirituous liquor has the same meaning as set forth in the Colorado Liquor Code.

Manager means and includes that person who manages, directs, supervises, oversees and administers the acts, transactions and acts of servants of the establishments governed by this chapter.

~~Person includes a natural person, partnership, association, company, corporation, limited liability company, organization or manager, agent, servant, officer or employee of any of them.~~

(b) All other words and phrases used in this chapter shall have the meanings attached by the state statutes regulating the sale of alcohol, or if not otherwise defined by law, as are used in their common, ordinary and accepted sense and meaning.

(Code 1994, § 6.16.025; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 29, 2000, § 1, 8-1-2000; Ord. No. 10, 2001, § 1(part), 1-16-2001; Ord. No. 7, 2019, § 6.16.025, 2-19-2019; Ord. No. 14, 2020, exh. A, § 6.16.025, 6-23-2020)

Secs. 8-436--8-453. Reserved.

ARTICLE II. LICENSES

Sec. 8-454. License required.

It is unlawful for any person to sell or to offer for sale at retail within the city any alcohol without first having been granted and issued a license to do so by the city.

(Code 1994, § 6.16.030; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.030, 2-19-2019)

Sec. 8-455. Secretary of the authority.

The city clerk shall receive all applications for licenses, and shall issue all licenses granted by the authority, upon receipt of such license fees and taxes as are required by law and this chapter. The city clerk shall serve as the official secretary of the authority and shall designate a person or persons to provide the necessary administrative and reporting and support services for the authority. The city clerk or his designee shall attend the meetings of the authority. All public notice by publication in a newspaper and by the posting of signs, as required by state law, shall be accomplished by the city clerk.

(Code 1994, § 6.16.040; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.040, 2-19-2019)

Sec. 8-456. Application.

The applicant shall fully complete an application for license as required by the State licensing authority. No application for a new license or for the renewal of an existing license, or for the transfer of location or ownership of an existing license shall be submitted to the city until the applications have been complete in all respects.

(Code 1994, § 6.16.050; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.050, 2-19-2019)

Sec. 8-457. Special event permit applications; approval and issuance procedure.

(a) The authority shall grant or refuse applications for special event permits, without notification to the state licensing authority for the state authority's approval or disapproval of said permits in accordance with C.R.S. title 44, art. 5, as amended from time to time.

(b) The authority shall report to the state licensing authority within ten days after it issues a permit, the name of the organization to which the permit was issued, the address of the permitted location and the permitted dates of alcohol beverage service.

(c) The authority shall promptly act upon each application and either approve or disapprove each application for a special event permit.

(Code 1994, § 6.16.070; Ord. No. 22, 2011, § 1, 8-2-2011; Ord. No. 7, 2019, § 6.16.070, 2-19-2019)

Sec. 8-458. License application hearings; procedure.

The procedures set forth in C.R.S. title 44, chs. 3 and 4 and the regulations that may from time to time be adopted by the state licensing authority, shall be followed in all license application hearings before the licensing authority.

(Code 1994, § 6.16.090; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.090, 2-19-2019)

Sec. 8-459. Public hearing notice.

(a) In addition to following the posting and publication requirements of state law, the city will make all reasonable attempts to mail a courtesy notice of any public hearing at which a new or change of location application is to be considered to those property owners within approximately 500 feet of the proposed site.

(b) The information typically provided in the courtesy notice shall contain the same information as that required for posting and publication and a statement that additional information about the application is available at the city clerk's office.

(c) Failure of the city to provide a courtesy notice as provided herein shall not affect the validity of any hearing or determination by the licensing authority.

(Code 1994, § 6.16.095; Ord. No. 29, 2000, § 3, 8-1-2000; Ord. No. 1, 2003, § 5, 1-7-2003; Ord. No. 34, 2007, § 1, 7-17-2007; Ord. No. 7, 2019, § 6.16.095, 2-19-2019)

Sec. 8-460. Public hearing.

(a) The licensing authority may promulgate rules of procedure for the conduct of all hearings on applications for licenses or for revocation or suspension of licenses. Those rules of procedure shall be available at the city clerk's office.

(b) The licensing authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, records or other evidence necessary to a determination in any hearing which the licensing authority is authorized to conduct. It shall be unlawful for any person to fail to comply with any subpoena issued by the authority in the proper conduct of its hearings. The municipal court or the district court shall enforce the subpoenas of the licensing authority and, upon good cause shown, shall enter its orders compelling witnesses to attend and testify or produce books, records or other evidence, and shall impose penalties or punishment for contempt in case of failure to comply with such orders.

(c) A subpoena shall be served in the same manner as a subpoena issued by a district court of the state. Upon failure of any witness to comply with such subpoena, the city attorney shall, at the direction of the authority:

(1) Petition any judge of the municipal court, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the court, after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court; or

(2) Petition the district court in and for the county, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the court after hearing evidence in support of or contrary to the petition, enter its order as in other civil actions, compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court.

(d) Any attorney-at-law who appears before the licensing authority at any hearing shall be required to provide, in advance, the names and addresses of all persons whom he has been authorized to represent at the hearing.

(Code 1994, § 6.16.100; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.100, 2-19-2019)

Sec. 8-461. Fees.

(a) License and application fees and other charges for services related to licensing under this chapter shall be paid to the director of finance and submitted to the city clerk annually in advance of consideration by the licensing authority. The license and application fees and other charges shall be set annually by the licensing authority in an amount determined by the city manager within the limitations set by the state law.

(b) No rebate of any fees paid for any license issued hereunder shall be made except upon approval of the licensing authority.

(Code 1994, § 6.16.120; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 86, 1985, § 1, 9-3-1985; Ord. No. 51, 1989, § 1, 9-19-1989; Ord. No. 20, 1990 §§ 3, 4, 4-17-1990; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 4, 1996, §§ 1, 2, 1-16-1996; Ord. No. 42, 1996, § 1, 8-6-1996; Ord. No. 56, 1997, §§ 1, 2, 9-2-1997; Ord. No. 29, 2000, § 4, 8-1-2000; Ord. No. 1, 2003, § 7, 1-7-2003; Ord. No. 7, 2007, § 2, 2-20-2007; Ord. No. 34, 2007, § 1, 7-17-2007; Ord. No. 7, 2019, § 6.16.120, 2-19-2019)

Sec. 8-462. Penalty guidelines.

Violations of any provisions of this chapter shall result in penalties according to the generally accepted and practiced state penalty guidelines provided below. Nothing in the following guidelines is meant to restrict the licensing authority from issuing a lesser penalty, a higher penalty, or additional penalties as allowed by this chapter or state law, up to an including suspension of revocation of a license or the imposition of a fine in lieu of suspension as provided under the provisions of C.R.S. § 44-3-601.

Code Violation	*Suspension*
Sale to Minor:	
First Incident 1 Charge	15 days total, 5 served and 10 held in abeyance for a period of one year from date of hearing, pending no further violations
2 Charges	30 days total, 10 served and 20 held in abeyance for a period of one year from date of hearing, pending no further violations
3 + Charges	45 days total, 15 served and 30 held in abeyance for a period of one year from date of hearing, pending no further violations
Second Incident	Days held in abeyance automatically imposed from first incident, plus additional
Within 1 Year	suspension as stated in first incident above

Code Violation	*Suspension*
Purchase of Alcohol from Someone Other Than a Wholesaler:	
First Incident 1 Charge	10 days total, 3 served and 7 held in abeyance for a period of one year from date of hearing, pending no further violations
2 Charges	10 days total, 5 served and 5 held in abeyance for a period of one year from date of hearing, pending no further violations
Sale to Intoxicated Patron:	
First Incident 1 Charge	15 days total, 5 served and 10 held in abeyance for a period of one year from date of hearing, pending no further violations
2 Charges	30 days total, 10 served and 20 held in abeyance for a period of one

	year from date of hearing, pending no further violations
3 + Charges	45 days total, 15 served and 30 held in abeyance for a period of one year from date of hearing, pending no further violations
Second Incident Within 1 Year	Days held in abeyance automatically imposed from first incident, plus additional suspension as state in first incident above
Failure to Meet Food Requirement (H and R/Brew Pubs):	
First Incident	15 days total, 5 served and 10 held in abeyance for a period of one year from date of hearing, pending no further violations, with 30 days to comply
Second Incident Within 1 Year	Days held in abeyance automatically imposed from first incident, plus additional suspension as stated in first incident above
Video Poker Gambling:	
First Incident	45 days total, 15 served and 30 held in abeyance for a period of one year from date of hearing, pending no further violations
Second Incident	Days held in abeyance automatically imposed from first incident, plus additional suspension as stated in first incident above
Permitting Illegal Gambling:	
First Incident	10 days total, 3 served and 7 held in abeyance for a period of one year from date of hearing, pending no further violations
Second Incident	45 days total, 15 served and 30 held in abeyance for a period of one year from date of hearing, pending no further violations
Third Incident	Days held in abeyance automatically imposed from first incident, plus additional suspension as stated in first incident above
Failure to Maintain Adequate Books/Records:	
First Incident	15 days total, 5 served and 10 held in abeyance for a period of one year from date of hearing, pending no further violations
Second Incident	30 days total, 10 served and 20 held in abeyance for a period of one year from date of hearing, pending no further violations
Sale After Legal Hours:	
First Incident	10 days total, 3 served and 7 held in abeyance for a period of one year from date of hearing, pending no further violations
Second Incident	30 days total, 10 served and 20 held in abeyance for a period of one year from date of hearing, pending no further violations
Permitting Disturbances:	
First Incident	30 days total, 10 served and 20 held in abeyance for a period of one year from date of hearing, pending no further violations
Second Incident	Days held in abeyance automatically imposed from first incident, plus additional suspension as stated in first incident above
Violations on Follow-up Inspections:	
For each incident	3 days total, 1 served and 2 held in abeyance for a period of one year from date of hearing, pending no further violations
Failure to Report Manager Corporate, Financial Change:	

First Incident	5 days total, all 5 held in abeyance for a period of one year from date of hearing, pending no further violations
Second Incident	10 days total, 3 served and 7 held in abeyance for a period of one year from date of hearing, pending no further violations
Underage Employee Selling or Serving:	
First Incident 1 Charge	7 days total, 2 served and 5 held in abeyance for a period of one year from date of hearing, pending no further violations
2 Charges	14 days total, 4 served and 10 held in abeyance for a period of one year from date of hearing, pending no further violations
3 Charges	30 days total, 10 served and 20 held in abeyance for a period of one year from date of hearing, pending no further violations
Shake a Day (Dice or Dice Cup Pools):	
1 Charge	15 days total, 5 served and 10 held in abeyance for a period of one year from date of hearing, pending no further violations
2 Charges	30 days total, 10 served and 20 held in abeyance for a period of one year from date of hearing, pending no further violations
Altered Alcohol:	
1 Charge	15 days total, 5 served and 10 held in abeyance for a period of one year from date of hearing, pending no further violations

(Code 1994, § 6.16.133; Ord. No. 1, 2003, § 9, 1-7-2003; Ord. No. 7, 2019, § 6.16.133, 2-19-2019)

Sec. 8-463. Conditions imposed on suspension or renewal.

The licensing authority shall have the power to impose on a licensee, as a condition of a period of suspension held in abeyance or as a condition of renewal, any condition reasonably related to the offense leading to the suspension or the conduct of the business for which the license is to be renewed.

(Code 1994, § 6.16.135; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.135, 2-19-2019)

Sec. 8-464. Violation; penalty.

The standards for payment of a fine in lieu of suspension shall be as provided for in C.R.S. § 44-3-601, and shall apply to any licensee who violates or whose employees violate any terms of this chapter or applicable state law~~Title 44, articles 3, 4 or 5, C.R.S.~~, or the rules and regulations related thereto. Such licensee shall be subject to suspension or revocation of his license.

(Code 1994, § 6.16.138; Ord. No. 1, 2003, § 10, 1-7-2003; Ord. No. 7, 2019, § 6.16.138, 2-19-2019)

Sec. 8-465. Fees not refundable.

In the event a license is suspended or revoked, as provided in this chapter, no part of the fees paid therefor for the license shall be returned.

(Code 1994, § 6.16.170; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 1, 2003, § 1, 1-7-2003; Ord. No. 7, 2019, § 6.16.170, 2-19-2019)

Sec. 8-466. Buildings to meet standards.

(a) No license shall be issued, renewed or transferred unless the building in which the business or licensed activity is conducted meets all of the requirements of the zoning, building, electrical, plumbing, fire, mechanical, housing and dangerous building codes of the city.

(b) A special event permit allowing alcohol on the premises may be issued under circumstances where the premises do not comply with requirements of the uniform fire code, if the following requirements are satisfied:

(1) The special event permit applicant shall arrange for a fire watch, comprised of a minimum of two persons, to be conducted during the entire time of the special event occurrence. Arrangements for hire and payment of fire watch personnel shall be the responsibility of the applicant.

(2) If the chief of the city fire department, or his designee, requires that a fire watch for a particular special event be staffed by more than two persons, the applicant must arrange for a fire watch in accordance with the directions of the fire chief or his designee.

(3) The fire watch for any special event occurring on premises which are not strictly in compliance with the uniform fire code must be staffed by persons who are state certified fire fighters with direct radio contact with county 911 emergency dispatch.

(4) The special event permit applicant must finalize arrangements for the required fire watch prior to issuance of the liquor license.

(Code 1994, § 6.16.180; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 29, 2000, § 8, 8-1-2000; Ord. No. 7, 2019, § 6.16.180, 2-19-2019)

Sec. 8-467. Continuation of existing licenses.

Any license issued by the licensing authority prior to the effective date of the ordinance codified in this chapter shall remain in full force and effect until the expiration of such license under the former law; provided, however, that any suspension, revocation, renewal or transfer of any such license shall be governed by this chapter.

(Code 1994, § 6.16.190; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.190, 2-19-2019)

Sec. 8-468. Optional premises licenses.

(a) *In general*. The following standards for the issuance of optional premises licenses or for optional premises for a hotel and restaurant license are hereby adopted pursuant to the provisions of C.R.S. §§ 44-3-413 and 44-3-415. These standards shall be considered in addition to all other standards applicable to the issuance of licenses under state law for optional premises license or for optional premises for a hotel and restaurant license. These two types of licenses for optional premises will be collectively referred to as optional premises in these standards unless otherwise provided.

(b) *Eligible facilities*. An optional premises may only be approved when that premises is located on or adjacent to an outdoor sports and recreational facility as defined in C.R.S. § 44-3-310. The types of outdoor sports and recreational facilities in the city which may be considered for an outdoor premises license include the following:

(1) Country clubs;

(2) Golf courses and driving ranges;

(3) Ice skating areas;

(4) Ski areas;

(5) Swimming pools;

(6) Parks and arenas.

There are no restrictions on the minimum size of the outdoor sports and recreational facilities which may be eligible for the approval of an optional premises license. However, the licensing authority may consider the size of the particular outdoor sports or recreational facility in relationship to the number of optional premises requested for the facility.

(c) *Number of optional premises*. There are no restrictions on the number of optional premises which any one licensee may have on his or its outdoor sports or recreational facility. However, any applicant requesting approval of more than one optional premises shall demonstrate the need for each optional premises in relationship to the outdoor sports or recreational facility and its guests.

(d) *Submittal requirements*. When submitting a request for the approval of an optional premises, in addition to meeting the license application requirements of this chapter, an applicant shall also submit the following information:

(1) A map or other drawing illustrating the outdoor sports or recreational facility boundaries and the approximate location of each optional premises requested.

(2) A description of the method which shall be used to identify the boundaries of the optional premises when it is in use.

(3) A description of the provisions which have been made for storing alcohol in a secured area on or off the optional premises for use on the optional premises.

(e) *Notice*. Pursuant to C.R.S. § 44-3-101 et seq., as amended from time to time, no alcohol may be served on the optional premises until 48 hours after the licensee has provided written notice to the city clerk's office, unless notice is waived by the authority. Such notice must contain the specific days and hours on which the optional premises are to be used. In this regard, there is no limitation on the number of days which a licensee may specify in each notice. However, no notice may specify any date of use which is more than 180 days from the notice date.

(f) *Fees*. Fees for application and processing of an optional premises license shall be as set forth in C.R.S. § 44-3-101 et seq., as amended from time to time, and section 8-461.

(Code 1994, § 6.16.215; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 29, 2000, § 8, 8-1-2000; Ord. No. 07, 2011, § 1, 2-1-2011; Ord. No. 7, 2019, § 6.16.215, 2-19-2019)

Sec. 8-469. Promotional associations and common consumption areas.

(a) The licensing authority is hereby authorized to certify and decertify promotional associations; designate the location, size, security and hours of operation of common consumption areas; and allow attachment of licensed premises to common consumption areas consistent with this chapter and the provisions included herein.

(b) The following standards related to promotional associations and common consumption areas are hereby adopted pursuant to the provisions of C.R.S. § 44-3-910, as may be amended from time to time, and the entertainment district regulations found in division 8 of article III of chapter 8 of title 24 of this Code. The standards adopted herein shall be considered in addition to all other standards applicable to the issuance of licenses under this chapter.

(c) Certification of a promotional association shall be applied for in a manner consistent with this section as determined by the licensing authority and include the following minimum information:

(1) A copy of the articles of incorporation and bylaws and a list of all directors and officers of the promotional association.

(d) The promotional association shall have at least two licensed premises attached to the common consumption area.

(e) A member of each of the licensed premises attached to the promotional association shall serve on the board of directors of the promotional association.

(1) A detailed map of the proposed common consumption area, including: location of physical barriers, entrances and exits, location of attached licensed premises, and identification of licensed premises that are adjacent but not to be attached to the common consumption area. The size of the common consumption area shall not exceed the area approved as the entertainment district within which the common consumption area is located, but may be a smaller area within the entertainment district, provided that the new area is clearly delineated using physical barriers to close the area to motor vehicle traffic and to limit pedestrian access.

(2) A security plan, including evidence of training and approval of personnel as required under the Entertainment District regulations at section 24-918, a detailed description of security arrangements and the approximate location of security personnel within the common consumption area during operating hours.

(3) A list of dates and beginning and ending hours of operation of the common consumption area.

(4) Documentation showing possession of the common consumption area by the promotional association.

(5) A list of the attached licensees listing the following information: alcohol license number, a any past

violations of this Code or state law, and a copy of any operational agreements.

(6) An insurance certificate of general liability and liquor liability insurance naming the city as an additional insured in a minimum amount of $1,000,000.00.

(7) Documentation of how the application addresses the reasonable requirements of the neighborhood and the desires of the adult inhabitants as evidenced by petitions, written testimony or otherwise.

(8) Application fee.

(9) Upon approval of a certification by the licensing authority, the terms and conditions of the approval shall remain effective until and unless a revised or amended application is submitted to the licensing authority and approved using the same procedures under which the original application was approved.

(f) Application for recertification of a promotional association must be made by January 31 of each year in a manner consistent with the provisions of this section and include, but not be limited to:

(1) A copy of any changes to the articles of incorporation, bylaws and/or the directors and officers of the promotional association.

(2) All items noted under subsection (c), (2) through (9) of this section.

(g) Once certified by the licensing authority as a promotional association, the association may operate a common consumption area within an entertainment district and authorize the attachment of a licensed premises to the common consumption area, subject to approval by the licensing authority. Application for attachment of a licensed premises to the common consumption area by a certified promotional association shall be made in a manner consistent with the provisions of this section and include, but not be limited to, the following information:

(1) Authorization for attachment from the certified promotional association.

(2) Name of the representative from the licensed premises proposed for attachment who would serve as an additional director on the board of the certified promotional association.

(3) A detailed map of the common consumption area, including location of physical barriers, entrances and exits, location of attached licensed premises, identification of licensed premises that are adjacent but not to be attached to the common consumption area and approximate location of security personnel.

(h) The licensing authority shall consider the merits of the application for a promotional association of a common consumption area and may refuse to certify or may decertify a promotional association if the association:

(1) Fails to submit the annual report as required under subsection (d) of this section by January 31 of each year;

(2) Fails to establish that the licensed premises and common consumption area can be operated without violating this article or creating a safety risk to the neighborhood;

(3) Fails to have at least two licensed premises attached to the common consumption area;

(4) Fails to obtain or maintain a properly endorsed general liability and liquor liability insurance policy that is reasonably acceptable to the local licensing authority and names the city as an additional insured;

(5) Fails to demonstrate that the use is compatible with the reasonable requirements of the neighborhood or the desires of the adult inhabitants; or

(6) Is in violation of C.R.S. § 44-3-909, as may be amended from time to time, related to common consumption area operations.

(Code 1994, § 6.16.217; Ord. No. 7, 2012, § 3, 3-6-2012; Ord. No. 2, 2013, § 1, 2-19-2013; Ord. No. 7, 2019, § 6.16.217, 2-19-2019)

Secs. 8-470--8-491. Reserved.

ARTICLE III. GENERAL PROVISIONS; UNLAWFUL ACTS

Sec. 8-492. Licensee to report disorderly conduct.

A licensed establishment must be conducted in a decent, orderly and respectable manner, and shall not permit

within or upon the licensed premises the loitering of habitual drunkards or intoxicated persons, lewd or indecent displays, profanity, rowdiness, undue noise or other disturbance or activity offensive to the sensitivities of the average citizen, or to the residents of the neighborhood in which the establishment is located.

(Code 1994, § 6.16.220; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.220, 2-19-2019)

Sec. 8-493. Lighting in licensed premises.

All licensees shall be required to maintain a level of light within the licensed premises which would permit the checking of identification materials without resort to other lighting.

(Code 1994, § 6.16.230; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.230, 2-19-2019)

Sec. 8-494. Licensed premises to be open for inspection.

All premises licensed under this chapter shall be open to inspection by the city police department, the county health department, the state licensing authority and any other federal, state, county or city agency which is permitted or required by law to inspect licensed premises. It is unlawful for the licensee, its employees or agents or for any other person to refuse to permit any such inspection of the licensed premises or to otherwise interfere with any such inspection.

(Code 1994, § 6.16.240; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.240, 2-19-2019)

Sec. 8-495. License requirements.

The licensee shall be a resident of the state and, if a corporation, must be incorporated under the laws of the state and duly qualified to do business in the state. If a nonresident corporation, partnership or limited liability company wishes to hold a liquor license within the city pursuant to this Code and the Colorado Revised Statutes, such entity shall be properly registered and licensed to do business within the state by the secretary of state.

(Code 1994, § 6.16.250; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.250, 2-19-2019)

Sec. 8-496. Character and reputation requirements.

The licensee shall be of good moral character and reputation. No license shall be issued to or held by any corporation if any of its officers, directors or stockholders holding over ten percent of the outstanding and issued stock thereof is not of good moral character and reputation.

(1) In determining whether an applicant for a license or a licensee is of good moral character, the licensing authority shall be governed by the provisions of C.R.S. § 24-5-101.

(2) In investigating the character of an applicant or a licensee, the licensing authority may have access to criminal record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the licensing authority takes into consideration information concerning the applicant's criminal history record, the licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references and educational achievements, especially those pertaining to the period of time between the applicant's last criminal conviction and the consideration of his application for a license.

(3) As used in this section, the term "criminal justice agency" means any federal, state or municipal court or any governmental agency or subunit of such agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(Code 1994, § 6.16.260; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 56, 1994, § 1, 12-20-1994; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.260, 2-19-2019)

Sec. 8-497. Prohibiting open containers of alcohol in certain public areas.

(a) No person within the city limits shall possess an opened container of or consume alcohol in public, except upon premises licensed for consumption of the liquor or beverage involved or as authorized in this chapter.

(b) For purposes of this section, the term "open container" means any container other than an original closed container as sealed or closed for sale to the public by the manufacturer or bottler of the liquor or beverage or as defined by the state liquor enforcement division. If an original container has been unsealed, undone, or opened in any manner, it is an open container for purposes of this section.

(c) For purposes of this section, the term "in public" means:

(1) In or upon any public highway, street, alley, walk, parking lot, building, park, or other public property or place, whether in a vehicle or not;

(2) In or upon those portions of any private property upon which the public has an express or implied license to enter or remain; or

(3) In or upon any other private property without the express or implied permission of the owner or person in possession and control of such property or such person's agent.

(d) It is unlawful for any person to serve, consume or possess an open container of alcohol when on, in or using, by conveyance or otherwise, the premises of the Jesus Rodarte Cultural Center.

(e) This section shall not apply to the serving or consumption of alcohol within the premises of the Union Colony Civic Center, Greeley Recreation Center, Greeley Active Adult Center, Greeley Ice Haus or the Greeley History Museum when the serving or consumption of alcohol is in conjunction with an event under the control of an authorized licensee or at authorized social gatherings (such as banquets, luncheons, wedding receptions) held within the confines of those facilities.

(f) Violations. Notwithstanding any other part of this chapter, a violation of this section shall be punishable as a misdemeanor offense.

(Code 1994, § 6.16.270; Ord. No. 23, 1982, § 2(part), 5-4-1982; Ord. No. 89, 1984, § 1, 11-20-1984; Ord. 118, 1985, § 1, 12-17-1985; Ord. No. 56, 1994, § 1, 12-20-1994; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 46, 1998, § 1, 8-18-1998; Ord. No. 29, 2000, § 8, 8-1-2000; Ord. No. 1, 2003, § 14, 1-7-2003; Ord. No. 13, 2004, § 1, 3-2-2004; Ord. No. 7, 2019, § 6.16.270, 2-19-2019; Ord. No. 14, 2020, exh. A, § 6.16.270, 6-23-2020)

Sec. 8-498. Authorizing open containers of alcohol in certain areas.

(a) For the purposes of this section, the term “downtown open consumption area” means that area beginning at and including the sidewalk right-of-way extending from the west curb line of 8th Avenue to and including the sidewalk right-of-way to the east curb line of 9th Avenue, and between and including the sidewalk right-of-way and from the north edge of the sidewalk right-of-way of 8th Street to and including the sidewalk right-of-way to the south edge of the sidewalk right-of-way on 9th Street, also including the area known as the Chase Plaza, and including that portion of sidewalk on the west side of 8th Avenue from the 9th Street Plaza south 200 feet.

(b) During the hours of 7:00 a.m. to 12:00 a.m., it is not unlawful to possess or consume an open container of alcohol in or upon the sidewalks, parking lots, or other public property or place located in the downtown open consumption area, to the extent authorized by state law.

(1) If a special event permit for the sale of liquor or fermented malt beverages has been issued for all or a portion of the property located in the downtown open consumption area pursuant to C.R.S. § 44-5-101 et seq., then no person shall take or consume any malt, vinous, or spirituous liquor or fermented malt beverage onto or in the area designated in such permit except in accordance with such permit if a sign has been posted giving notice of the time and location of the area so restricted.

(2) Open containers of alcohol shall not be permitted in the downtown open consumption area on any date and during any time when the downtown entertainment district has been designated by a promotional association and certified by the liquor licensing authority as a common consumption area.

(c) It is unlawful for a person to bring, or have in his possession, any glass beverage container in the downtown open consumption area.

(d) Violations. Notwithstanding any other part of this chapter, a violation of this section shall be punishable as a misdemeanor offense.

(e) This section shall be automatically repealed on September 12, 2020, unless otherwise extended by the city council.

(Code 1994, § 6.16.271; Ord. No. 14, 2020, exh. A, § 6.16.271, 6-23-2020)

Sec. 8-499. Alcohol consumption in parks.

(a) Spirituous liquor is prohibited, but vinous liquor, malt liquor and fermented malt beverages may be consumed by adults in city parks except the following:

(1) Glenmere Park and any of its adjacent public streets, parking lots, alleys or sidewalks;

(2) Lincoln Park, located between Seventh to Ninth Streets and Ninth to Tenth Avenues, except within premises holding a license or permit issued by the liquor licensing authority; and

(3) Island Grove Regional Park on any calendar day during which the premises is subject to a special event permit.

(b) Violations. Notwithstanding any other part of this chapter, a violation of this section shall be punishable as a misdemeanor offense.

(Code 1994, § 6.16.273; Ord. No. 8, 2019, exh. A, § 13.40.065, 2-19-2019; Ord. No. 14, 2020, exh. A, § 6.16.273, 6-23-2020)

Sec. 8-500. Restrictions in Island Grove Park.

(a) It is unlawful for any person to serve, consumes or possess an open container of alcohol within the boundaries of Island Grove Park on any calendar day during which the premises are subject to a special event permit.

(b) This section shall not apply to areas contained within the premises holding a license issued by the liquor authority.

(c) Violations. Notwithstanding any other part of this chapter, a violation of this section shall be punishable as a misdemeanor offense.

(Code 1994, § 6.16.275; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 1, 2003, § 15, 1-7-2003; Ord. No. 7, 2019, § 6.16.275, 2-19-2019; Ord. No. 14, 2020, exh. A, § 6.16.275, 6-23-2020)

Sec. 8-501. Elimination of distance requirements.

As authorized by C.R.S. § 44-3-313, the licensing authority hereby eliminates the distance restrictions for all classes of licenses with the exception of retail liquor store licenses and liquor-licensed drugstore licenses issued after June 4, 2018. These license types shall not locate within 1,500 feet of a retail liquor store license or a liquor-licensed drugstore license Additionally, no new fermented malt beverage licenses issued on or after January 1, 2019 shall be located within 500 feet of a retail liquor store license. These distance restrictions also apply to any change of location for a retail liquor store license, liquor-licensed drug store license or a fermented malt beverage license.

(Code 1994, § 6.16.290; Ord. No. 54, 1991, § 1, 10-29-1991; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 29, 2000, § 7, 8-1-2000; Ord. No. 7, 2019, § 6.16.290, 2-19-2019)

Sec. 8-502. Teen night/boxing tournaments.

(a) No premises holding a license issued by the liquor authority may promote, hold, conduct or allow in its premises to be promoted, held or conducted any teen night or similar event, in which underage persons are specially solicited, attracted and/or invited by the licensee or anyone recruited by the licensee on the licensee's behalf to the licensed premises during evening hours after 8:00 p.m. of any day during which the establishment is open for business, and during which time adult patrons are present primarily for the purpose of consuming alcohol, except that this section shall not apply to licensed premises in which multiple facilities are located and at such times as two or more unrelated and otherwise lawful activities or events are taking place simultaneously.

(b) This section is not intended to prohibit or limit teenage activities which, as otherwise provided and allowed by applicable law, may be advertised and/or held in or upon any such licensed establishment which ceases

all alcohol sales for the time of such activity, making alcohol unavailable for sale or provision on the premises during that time.

(c) Boxing tournaments or similar events.

(1) Except as set forth below, no premises holding a license issued by the liquor authority may promote, hold, conduct or allow anywhere on its premises or grounds to be promoted, held or conducted any boxing tournament, kickboxing tournament or similar event, in which persons are engaged, encouraged and/or compensated for fighting in a manner creating a public display and intended or purported to serve as entertainment.

(2) Island Grove Regional Park shall be authorized to promote, hold, conduct or allow on its premises or grounds to be promoted, held or conducted any boxing tournament, kickboxing tournament or similar event, provided that:

a. Such event is sanctioned and approved by the state boxing commission pursuant to the Colorado Professional Boxing Safety Act, C.R.S. § 12-10-101, et seq.

b. An individual involved in the event as a promoter, fighter, boxer, referee, judge, second or inspector shall maintain current licensure through the state boxing commission.

c. The event abides by the security policies and procedures established for boxing, kickboxing or related events by Island Grove Regional Park management.

(d) Penalties.

(1) Any person, firm, corporation or other entity who violates any of the provisions of this section or who allows any provision of this section to be violated commits a misdemeanor offense and, upon conviction thereof, may be punished as set forth in chapter 9 of title 1 of this Code, except that any term of imprisonment imposed shall not exceed 90 days.

(2) The issuance of a charge or summons and complaint hereunder against the owner or licensee of a licensed establishment shall not foreclose or prevent the issuance of a similar charge or complaint against the individual who actually committed the violation or allowed the violation of this section to occur.

(e) Severability. If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

(Code 1994, § 6.16.295; Ord. No. 18, 1998, § 1, 4-7-1998; Ord. No. 29, 2000, § 8, 8-1-2000; Ord. No. 41, 2009, § 1, xx-xx-2009; Ord. No. 7, 2019, § 6.16.295, 2-19-2019)

Secs. 8-503--8-525. Reserved.

ARTICLE IV. OCCUPATIONAL LICENSE FEES

Sec. 8-526. Liquor and fermented beverage licensees determined; separate occupation.

The city council finds, determines and declares that, considering the nature of the business of selling alcohol, and the relation of such business to the municipal welfare as well as the relation thereof to the expenditures required of the city and a licensee, just and equitable distribution of the financial burdens within the city, and all other matters properly to be considered in relation thereto, the classification of such business as a separate occupation is reasonable, proper, uniform and nondiscriminating and necessary for a just and proper distribution of financial burdens within the city.

(Prior Code, § 3-21(a); Code 1994, § 6.16.370; Ord. No. 12, 1983, § 2, 2-15-1983; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.370, 2-19-2019)

Sec. 8-527. Fee levied and assessed.

(a) There is levied and assessed for each year an annual occupational license fee upon the business of selling alcohol.

(b) Occupational license fees shall be paid to the director of finance and submitted to the city clerk annually in advance of consideration by the licensing authority as follows:

Type	*Occupation License Fee*
Retail liquor Store	$500.00
Liquor-Licensed Drugstore	$500.00
Beer and wine	$600.00
Hotel/restaurant	$1,500.00
Tavern	$2,000.00
Lodging and Entertainment	$2,000.00
Club	$500.00
Arts	$500.00
Racetrack	$2,000.00
Fermented Malt Beverage, on premises	$500.00
Fermented Malt Beverage, off premises	$250.00
Optional premises	$2,000.00
Brew pub	$1,500.00

(Prior Code, § 3-21(b); Code 1994, § 6.16.380; Ord. No. 12, 1983, § 4, 2-15-1983; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 34, 2007, § 1, 7-17-2007; Ord. No. 7, 2019, § 6.16.380, 2-19-2019)

Sec. 8-528. Payment of fee; posting of receipt.

The occupational license fee for licenses issued on or after February 1, 1976, shall be due and payable to the director of finance at the time the license to sell alcohol is issued and thereafter when the license is renewed. The full-year occupational license fee shall be coterminous with the license year of each licensee.

(Prior Code, § 3-21(c); Code 1994, § 6.16.390; Ord. No. 12, 1983, § 6, 2-15-1983; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 34, 2007, § 1, 7-17-2007; Ord. No. 7, 2019, § 6.16.390, 2-19-2019)

Sec. 8-529. Refund of fee on closure of business.

Upon written notice of discontinuation to the city clerk, a licensee who has paid an occupational license fee under section 8-527 and discontinues the applicable business prior to the expiration of the license shall be entitled to a prorated refund of the fee for that period of the license year during which the business was discontinued. The occupational license fee shall be prorated by months for the purpose of this section and the licensee shall receive a refund for those months that the licensee's business was discontinued following written notice of the discontinuation.

(Prior Code, § 3-21(d); Code 1994, § 6.16.400; Ord. No. 56, 1980, § 12, 7-1-1980; Ord. No. 12, 1983, § 8, 2-15-1983; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 34, 2007, § 1, 7-17-2007; Ord. No. 7, 2019, § 6.16.400, 2-19-2019)

Sec. 8-530. Recovery right of city.

It is unlawful to operate any establishment, the purpose of which is to sell alcohol, within the city without paying the applicable fee imposed by this article, and any person attempting to do so shall be punished as provided in chapter 9 of title 1 of this Code. Each day that the non-payment continues shall constitute a separate violation. In addition, the city shall have the right to recover all sums due under this article by judgment and execution thereon in a civil action in any court of competent jurisdiction.

(Prior Code, § 3-23(b); Code 1994, § 6.16.460; Ord. No. 4, 1995, § 2(part), 1-3-1995; Ord. No. 7, 2019, § 6.16.460, 2-19-2019)

Secs. 8-531--8-553. Reserved.

ARTICLE V. BEER, WINE, AND SPIRITUOUS LIQUOR TASTINGS

Sec. 8-554. Beer, wine, and spirituous liquor tasting authorized; permit required.

(a) Alcohol tastings on the licensed premises of a retail liquor store licensee or of a liquor--licensed drugstore licensee are authorized to be conducted within the city in accordance with C.R.S. § 44-3-301(10), and subject to the provisions of this article.

(b) The authority is authorized to issue alcohol tasting permits in accordance with the requirements of this article.

(c) It shall be unlawful for any person to conduct alcohol tastings within the city without having first received a permit issued in accordance with this section.

(d) Retail liquor store licensees and liquor-licensed drugstore licensees desiring to conduct alcohol tastings shall submit a tasting permit application to the city clerk accompanied by the fee stated in section 8-434.

(e) Submittal requirements. Annually, the licensee shall submit a completed alcohol tasting permit application obtained from the city clerk's office, including the following:

(1) Licensee information, including, but not limited to, name, address, contact information and license number;

(2) Verification that the licensee and employee who will be conducting the tastings have completed a seller/server training program that meets the standards established by the State licensing authority and is qualified to conduct an alcohol tasting.

(f) No alcohol can be provided as samples during a tasting until 48 hours after the licensee has provided written notice of the tasting to the police department and the city clerk's office. Such notice must contain the specific days and hours on which the alcohol tasting will occur. In this regard, there is no limitation on the number of days which a licensee may specify in each notice.

(g) Renewal of tasting permits shall be concurrent with the renewal of licenses for retail liquor stores and liquor-licensed drugstores. A licensee's initial tasting permit shall expire on the same date as the date that the licensee's retail liquor store or liquor-licensed drugstore license expires. The initial tastings permit application fee shall not be prorated or refunded if the permit expires in less than a year.

(h) Alcohol tasting permits shall be conspicuously and prominently posted by the licensee on the licensed premises at all times during operating hours.

(i) An alcohol tasting permit shall only be issued to a retail liquor store licensee or a liquor-licensed drugstore licensee whose license is valid, not subject to a current or pending enforcement action by the city or the State and in full force and effect.

(Code 1994, § 6.16.500; Ord. No. 7, 2007, § 1, 2-20-2007; Ord. No. 2, 2016 , § 1(exh. A), 1-19-2016; Ord. No. 7, 2019, § 6.16.500, 2-19-2019)

Sec. 8-555. Limitations on beer, wine, and spirituous liquor tastings.

Alcohol tastings within the city shall be subject to the following limitations:

(1) Alcohol tastings shall be conducted only on a licensed premises by a person who has completed a seller/server training program that meets the standards established by the state licensing authority and who is either a retail liquor store licensee or a liquor-licensed drugstore licensee or an employee of a licensee;

(2) The alcohol used in tastings must be purchased through a licensed wholesaler, licensed brew pub, licensed distillery pub or winery licensed pursuant to C.R.S. § 44-4-403, at a cost that is not less than the laid-in cost for such alcohol;

(3) The size of an individual sample shall not exceed one ounce off malt, vinous or fermented malt beverages or one-half of one ounce of spirituous liquor;

(4) The licensee shall not serve more than four individual samples of alcohol to a patron during a tasting;

(5) Alcohol tastings shall not exceed a total of five hours in duration per day, which need not be consecutive;

(6) Alcohol tastings shall be conducted only during the operating hours in which the licensee on whose premises the alcohol tastings occur is permitted to sell alcohol, and in no case earlier than 11:00 a.m. or later than 9:00 p.m.;

(7) The licensee shall prohibit patrons from leaving the licensed premises with a sample;

(8) The licensee shall promptly remove all open and unconsumed alcohol samples from the licensed premises, destroy the samples immediately following the completion of the alcohol tasting, or store any open containers of unconsumed alcohol in a secure area outside the sales area of the licensed premises for use at a tasting conducted at a later time or date;

(9) The licensee shall not serve a person who is under 21 years of age, who is visibly intoxicated or is a habitual drunkard;

(10) The alcohol samples used in the tastings shall be served in clear, open containers and shall be provided to a patron free of charge;

(11) The licensee may conduct tastings on no more than 156 days per year. Alcohol tastings may occur on no more than four of the six days from a Monday to the following Saturday, not to exceed 104 days per year;

(12) The licensee shall maintain on the licensed premises a log of all alcohol consumed as tastings on forms obtained from the authority, to be submitted to the city clerk each year with the alcohol tasting permit renewal application, and during all operating hours the log shall be subject to inspection by the police department, the county health department, the State licensing authority and any other federal, state, county or city agency which is permitted or required by law to inspect licensed premises; and

(13) No manufacturer of alcohol shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at an alcohol tasting, and the licensee shall bear the financial and all other responsibility for an alcohol tasting.

(Code 1994, § 6.16.510; Ord. No. 7, 2007, § 1, 2-20-2007; Ord. No. 2, 2016 , § 1(exh. A), 1-19-2016; Ord. No. 7, 2019, § 6.16.510, 2-19-2019)

Sec. 8-556. Violations.

(a) A violation of this article or C.R.S. § 44-3-301(10) by a retail liquor store licensee or a liquor-licensed drugstore licensee, whether by the licensee, licensee's employees, agents or otherwise, shall be the responsibility of the licensee conducting the alcohol tasting.

(b) Retail liquor store licensees and liquor-licensed drugstore licensees conducting an alcohol tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to those licensees, including the hearings described in section 8-460.

(c) Nothing in this chapter shall affect the ability of a state winery licensed pursuant to C.R.S. § 44-3-402 or 44-3-403 to conduct an alcohol tasting pursuant to the authority of C.R.S. § 44-3-402(2) or 44-3-403(2)(e).

(Code 1994, § 6.16.520; Ord. No. 7, 2007, § 1, 2-20-2007; Ord. No. 2, 2016 , § 1(exh. A), 1-19-2016; Ord. No. 7, 2019, § 6.16.520, 2-19-2019)

Secs. 8-557--8-575. Reserved.

~~**Chapter 6.20 Reserved ***~~

~~***Editor's note**—Ord. No. 36, 2016 , § 1, adopted Dec. 20, 2016, repealed Ch. 6.20, §§ 6.20.010—6.20.090, which pertained to auctions and derived from Ord. 28, 2007 § 1; Ord. 22, 1982 §9(part); Prior Code, §§5-1—5-8.~~

Secs. 8-576--8-598. Reserved.

Chapter 6.32 Reserved *

***Editor's note**— Ord. No. 36, 2016 , § 1, adopted Dec. 20, 2016, repealed Ch. 6.32, §§ 6.32.010—6.32.050, which pertained to concrete and paving contractors and derived from Ord. 26, 2011 § 1; Ord. 28, 2007 § 1; Prior Code, § 19-17(a)—(c), 19-18(a) and (b).

Secs. 8-599--8-629. Reserved.

Chapter 6.40 Reserved *

***Editor's note**— Ord. No. 36, 2016 , § 1, adopted Dec. 20, 2016, repealed Ch. 6.40, §§ 6.40.010—6.40.090, which pertained to heating, air-conditioning and gasfitting and derived from Ord. 34, 2012 §§ 1, 2; Ord. 70, 2007 §§ 1, 2; Ord. 19, 2006 §§ 1, 2; Prior Code, §§ 13A-6, 13A-7, 13A-9—13A-11, 13A-13(a) and (b), 13A-14, 13A-16.

Secs. 8-630--8-646. Reserved.

Chapter 6.44 Reserved *

***Editor's note**— Ord. No. 36, 2016 , § 1, adopted Dec. 20, 2016, repealed Ch. 6.44, §§ 6.44.010, 6.44.020, which pertained to hotels and other transient accommodations and derived from Prior Code, §§ 15-72, 15-73.

Secs. 8-647--8-665. Reserved.

Chapter 6.48 Reserved *

***Editor's note**— Ord. No. 36, 2016 , § 1, adopted Dec. 20, 2016, repealed Ch. 6.48, §§ 6.48.010—6.48.370, which pertained to massage parlors and derived from Ord. 26, 2011 § 1; Ord. 54, 1994 § 1; Ord. 48, 1985 §6; Ord. 22, 1982 §9(part); Ord. 33, 1980 §9; Ord. 29, 1980 § 2; Ord. 28, 1980 § 2; Prior Code, §§ 13-200—13-202, 13-203(a)—(d), 13.204—13-207, 13-208(a)—(b)(8), 13-209(a) and (b), 13-210—13-215, 13-216.

Secs. 8-666--8-688. Reserved.

Chapter 6.52 Reserved *

***Editor's note**— Ord. No. 36, 2016 , § 1, adopted Dec. 20, 2016, repealed Ch. 6.52, §§ 6.52.010—6.52.310, which pertained to pawnbrokers and derived from Ord. 19, 2008 §§ 1—7; Ord. 44, 2007 § 1; Ord. 33, 2007 § 1.

Secs. 8-689--8-719. Reserved.

Chapter 6.56 Reserved *

***Editor's note**— Ord. No. 36, 2016 , § 1, adopted Dec. 20, 2016, repealed Ch. 6.56, §§ 6.56.010—6.56.040, which pertained to peddlers, hawkers and solicitors and derived from Prior Code, §§ 15-83—15-86.

Secs. 8-720--8-736. Reserved.

Chapter 6.60 Reserved

Secs. 1-1--1-1. Reserved.

Chapter 6.64 Reserved *

***Editor's note**— Ord. No. 36, 2016 , § 1, adopted Dec. 20, 2016, repealed Ch. 6.64, §§ 6.64.010—6.64.270, which pertained to private security services and derived from Ord. 31, 2007 § 1; Ord. 28, 2007 § 1; Ord. 20, 1999 §§ 1, 2, 4—11; Ord. 34, 1990 §§ 1—3; Ord. 73, 1985 § 1(part).

Secs. 8-737--8-755. Reserved.

Chapter 6.68 Reserved *

***Editor's note**— Ord. No. 11, 2018 , § 1, adopted Mar. 6, 2018, repealed Ch. 6.68, §§ 6.68.010, which pertained to theaters and derived from Prior Code, § 15-90.

Secs. 8-756--8-778. Reserved.

Chapter 6.76 Reserved *

***Editor's note**— Ord. No. 11, 2018 , § 1, adopted Mar. 6, 2018, repealed Ch. 6.76, §§ 6.76.010—6.76.060, which pertained to vehicle for hire licenses and derived from Prior Code, §§ 21-1—21-5; Ord. 28, 2007 § 1.

Secs. 8-779--8-809. Reserved.

Chapter 6.80 Reserved *

***Editor's note**— Ord. No. 11, 2018 , § 1, adopted Mar. 6, 2018, repealed Ch. 6.80, §§ 6.80.010—6.80.090, which pertained to amusement devices and derived from Ord. 38, 1982 § 1(part); Ord. 48, 1985 §7; Ord. 28, 2007 § 1; Ord. 26, 2011 § 1.

Title 9

RESERVED

Title 10

ANIMALS

CHAPTER 1. DEFINITIONS

Sec. 10-1. Applicability.

As used in this title, the following words have the meanings ascribed to them in this chapter.

~~Sec. 10-2. Animal.~~

Animal means any vertebrate creature that has been bred or raised to live with or near humans and is dependent on humans for food, water and shelter. The term "animal" includes pets and livestock. The term "animal" does not include fowl, service animals, wild animals and wild birds, all of which are separately defined herein. The term "animal" does not include human beings.

~~Sec. 10-3. Animal control officer.~~

Animal control officer means any person who is employed by the city and authorized by the chief of police to administer and enforce this title. Any officer of the city police department can act as an animal control officer.

~~Sec. 10-4. Animal establishment.~~

Animal establishment means any premises, including kennels and stables, used in whole or in part for the keeping of animals for the purpose of adoption, breeding, boarding, grooming, handling, selling, sheltering, trading or otherwise transferring animals. The term "animal establishment" does not mean veterinary facilities, licensed research facilities or facilities operated by government agencies, including an animal shelter or impound agency.

~~Sec. 10-5. Animal shelter.~~

Animal shelter means a premises operated by the city or another entity, including the Humane Society of Weld County, for the purpose of housing and caring for animals held under the authority of the laws, regulations or ordinances of the city. An animal shelter may also be an impound agency.

~~Sec. 10-6. Dangerous animal.~~

Dangerous animal means an animal that has attacked or bitten a person, attacked or bitten another animal and thereby killed or caused bodily injury, chased a person on property not the premises of the owner or keeper such that the person is reasonably in fear of attack, or acted in a manner that causes or should cause the owner or keeper to know that the animal may be dangerous. The term "dangerous animal" does not mean an animal that merely growls, snarls or bares its teeth and has not attacked, bitten or chased.

~~Sec. 10-7. Days.~~

Days means calendar days, including Saturdays, Sundays and legal holidays. In computing any period of time prescribed or allowed by this title, the day of the event from which the period of time begins to run is not included. The last day of the computed period is included, unless it is a Saturday, Sunday or legal holiday, in which case the last day is the next day which is not a Saturday, Sunday or legal holiday.

~~Sec. 10-8. Disposition or disposal.~~

Disposition or *disposal* means adoption, donation, release of an animal to a rehabilitator licensed by the state division of wildlife or the United States Fish and Wildlife Service or humane destruction.

~~Sec. 10-9. Finding of violation.~~

Finding of violation means a determination by the municipal court or entry of a stipulation that a violation of this title has been committed.

~~Sec. 10-10. Fowl.~~

Fowl means any bird not kept as a pet, but customarily used in the market or household for food consumption, such as a chicken, duck, goose and turkey, and includes wild birds such as guinea fowl and pheasants.

~~Sec. 10-11. Guard dog.~~

Guard dog means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog.

~~Sec. 10-12. Impound agency.~~

Impound agency means a premises operated by the city or another entity, including the Humane Society of Weld County, and designated for the confinement of animals taken into custody under this title. An impound agency may also be an animal shelter.

~~Sec. 10-13. Keeper.~~

Keeper means a person, within the city, who has custody of or exercises control over an animal, the occupant of the premises where the animal is usually kept or a person who, for a period of at least five consecutive days, possesses, harbors or allows an animal to remain about the person's premises.

~~Sec. 10-14. Owner.~~

Owner means a person, within the city, who owns an animal or who is named on the licensing records of an animal as the owner.

~~Sec. 10-15. Premises.~~

Premises means real property owned, rented, leased, used, kept or occupied by a person. The term "premises" does not include common areas of multiple household dwelling units.

~~Sec. 10-16. Restrained.~~

Restrained means physically controlled by use of a leash, rope, chain or cable not more than six feet in length held by a person of sufficient size and physical ability to restrict the animal's movement, properly tethering the animal or keeping it within an enclosure restricting the animal to a particular premises.

~~Sec. 10-17. Service animal.~~

Service animal means a dog or miniature horse that has been trained to do work or perform tasks for an individual with a disability. The tasks performed by the service animal must be directly related to the person's disability. Animals that provide emotional support, therapy or comfort or are pets are not considered service animals.

~~Sec. 10-18. Sufficient food.~~

Sufficient food means a quantity of food sufficient to maintain an adequate level of nutrition for the animal's age, size, physical condition, health condition, species and breed, provided at least once every 24 hours from a clean receptacle.

~~Sec. 10-19. Sufficient water.~~

Sufficient water means clean, fresh, potable water adequate for the animal's age, size, physical condition, health condition, species and breed, accessible to the animal at all times.

~~Sec. 10-20. Wild animal.~~

Wild animal means prosimians or other nonhuman primates; venomous or poisonous snakes or venomous or poisonous reptiles; felids (including, but not limited to, jaguars, cheetahs, mountain lions, wildcats, panthers, margays or any other species of cat other than ordinarily domesticated house cats); ursids (including, but not limited to, bears); wild birds as defined herein; nonpoisonous snakes longer than six feet; reptiles (other than snakes) longer than one foot; mustelids (including but not limited to badgers, prairie dogs, skunks, beavers and muskrats); bats; procyonides (including, but not limited to, raccoons and coatis); elephants; marine mammals (including, but not

limited to, seals, sea lions, dolphins and sea otters); hyenas; edentates (including, but not limited to, anteaters, sloths and armadillos); viverrids (including, but not limited to, mongooses, civets and genets); marsupials; undomesticated ungulates (including, but not limited to, deer, hippopotamuses, rhinoceroses, giraffes, camels and zebras); crocodilians (including, but not limited to, alligators and crocodiles); or canids (including, but not limited to, wolves, coyotes, foxes or other species of canine other than ordinarily domesticated dogs). For purposes of this title, an animal in use for bona fide scientific research by a university or college shall not be treated as a wild animal.

~~Sec. 10-21. Wild bird.~~

Wild bird means a bird of prey, a game bird (excluding fowl) or any other undomesticated bird not customarily kept as a pet. For purposes of this title, neither the house sparrow nor the European starling shall be treated as a wild bird.

(Ord. No. 33, 2019, ch. 7.04, 8-6-2019)

Secs. 10-2--10-25. Reserved.

CHAPTER 2. ADMINISTRATION

Sec. 10-26. Purpose.

The city council finds and declares that the purpose of this title is to establish the regulations and expectations regarding animals in order to protect the public health, safety and welfare of persons in the city by prescribing the conditions under which animals can be kept and treated, restricting the types of animals that can be kept, requiring licensing and rabies vaccination, setting limits on the activities of animals, and preventing damage to people or property.

(Ord. No. 33, 2019, exh. A, § 7.06.010, 8-6-2019)

Sec. 10-27. Authority of animal control officers.

(a) An animal control officer shall have the authority to enforce the provisions of this title and to make all determinations required by the provisions of this title within the officer's discretion, including the power to issue a summons, complaint and penalty assessment to any person the officer reasonably believes to have violated this title.

(b) An animal control officer may issue to a person the officer reasonably believes to have violated this title a summons, complaint and penalty assessment that may be voided by the officer prior to filing with the municipal court upon satisfactory proof being presented to the officer that the person cited has come into compliance with the requirements of this title.

(c) When an animal control officer reasonably believes that a violation of this title has occurred that may compromise the public health, safety and welfare of persons in the city or endanger the life of an animal, the officer may impound the animal prior to a finding of violation.

(d) An animal control officer has the authority to enter a premises (excluding a dwelling or other enclosed building) or vehicle to enforce the provisions of or perform a duty imposed by this title, if:

(1) The officer has obtained consent of the person in possession of the premises or vehicle;

(2) The officer has obtained a warrant pursuant to Rule 241 of the Colorado Municipal Court Rules of Procedure;

(3) The officer is in pursuit of an animal that is or has been running at large;

(4) The officer is in pursuit of an animal the officer has reasonable cause to believe has bitten a human being;

(5) The officer is performing a rabies quarantine compliance inspection; or

(6) The officer reasonably believes that the life of an animal is endangered.

(Ord. No. 33, 2019, exh. A, § 7.06.020, 8-6-2019)

Sec. 10-28. Interference or failure to obey.

(a) Interfering with or failing to obey a lawful order of an animal control officer who is performing the officer's duties pursuant to this title, this Code or state or federal law is prohibited.

(b) Any finding of violation of this section shall be deemed a misdemeanor offense punishable pursuant to chapter 9 of title 1 of this Code.

(Ord. No. 33, 2019, exh. A, § 7.06.030, 8-6-2019)

Sec. 10-29. Liability.

No person shall have any cause of action, civil or criminal, against the city or its authorized personnel, including animal control officers, resulting from enforcement of this title, including forcing entry into a locked vehicle to render emergency assistance to an animal pursuant to C.R.S. § 13-21-108.4, confiscation and destruction of a trap or impoundment of an animal.

(Ord. No. 33, 2019, exh. A, § 7.06.040, 8-6-2019)

Secs. 10-30--10-51. Reserved.

CHAPTER 3. VIOLATIONS

Sec. 10-52. Generally.

(a) Conduct prohibited by this title shall be punishable as a misdemeanor infraction or a misdemeanor offense, as designated in each section, pursuant to chapters 9 and 10 of title 1 of this Code.

(b) A finding of violation punishable as a misdemeanor offense may also result in impoundment or a judicial order prohibiting the owning or keeping of any animal.

(c) A finding of violation for which there is a determination of injury or damage may also result in a judicial order for restitution.

(Ord. No. 33, 2019, exh. A, § 7.08.010, 8-6-2019)

Sec. 10-53. Mistreatment.

(a) Mistreatment of an animal by a person is prohibited. The following conduct constitutes mistreatment failing to provide or depriving the animal of:

(1) Sufficient food and sufficient water;

(2) Proper veterinary care consistent with the species, type of animal and acceptable agricultural animal husbandry practices; or

(3) Overdriving, overloading, overworking, tormenting, torturing, beating, mutilating or killing an animal.

(b) Any finding of violation of this section shall be punishable as a misdemeanor offense. Mistreated animals are subject to impoundment prior to a finding of violation.

(Ord. No. 33, 2019, exh. A, § 7.08.020, 8-6-2019)

Sec. 10-54. Failing to provide adequate shelter and containment.

(a) Failing to provide adequate shelter and containment for an animal is prohibited. To be adequate, a shelter must include:

(1) A roof, at least three enclosed sides, a doorway and a solid and level floor;

(2) Dry bedding in sufficient quantity for insulation against cold and damp conditions; and

(3) Protection from weather and environmental conditions, including cold, heat, sun exposure, wind and precipitation.

(b) To be adequate, containment must include enough space to meet the physical condition and exercise requirements of the species, type of animal and accepted agricultural animal husbandry practices, and be suitable to prevent the animal from escaping.

(c) Adequate containment may consist of tethering the animal on the owner or keeper's premises by means of a trolley system or attached to a pulley on a cable run, or by using a stake in the ground that is attached to a freely rotating ring device. However, tethering an animal so as to create a danger to the wellbeing of the animal is

prohibited.

(d) Danger to the wellbeing of the animal is created when:

(1) The animal is tethered in excess of ten consecutive hours in a 24-hour period;

a. The animal is tethered in a manner that is reasonably likely to become entangled with objects or other animals so as to cause injury to the animal;

b. The tether is not attached to a properly fitted collar or harness worn by the animal or is attached to a choke or pinch collar worn by the animal, choke and pinch collars being prohibited for the purposes of tethering;

c. There is no swivel attached to both ends of the tether to minimize tangling;

d. The tether weighs more than one-eighth of the animal's body weight;

(2) The trolley system or cable run is less than ten feet in length and mounted less than four feet and more than seven feet above ground level; or

(3) The animal is not provided with a sufficient area to exercise and does not have access to adequate shelter, sufficient food and sufficient water.

(e) To be adequate, the shelter and containment must be clean and free of filth, including feces.

(f) Violations.

(1) A first finding of violation this section shall be punishable as a misdemeanor infraction.

(2) A subsequent finding of violation within one calendar year of a first finding shall be punishable as a misdemeanor offense.

(3) Animals without adequate shelter and containment are subject to impoundment prior to a finding of violation.

(Ord. No. 33, 2019, exh. A, § 7.08.030, 8-6-2019)

Sec. 10-55. Abandonment.

(a) Abandonment of an animal is prohibited. An animal is abandoned if:

(1) It is left on the premises of the owner or keeper unattended and without adequate provision for its care for more than 48 consecutive hours.

(2) It is physically fastened to a stationary object not located on the premises of the owner or keeper if the owner or keeper is not located within 15 feet of the animal.

(b) Violations.

(1) A first finding of violation of this section shall be punishable as a misdemeanor infraction.

(2) A subsequent finding of violation within one calendar year of a first finding shall be punishable as a misdemeanor offense.

(3) Abandoned animals are subject to impoundment prior to a finding of violation.

(Ord. No. 33, 2019, exh. A, § 7.08.040, 8-6-2019)

Sec. 10-56. Animal at large.

(a) It is prohibited for an owner or keeper to allow an animal to be at large. An animal is at large when it is off the premises of the owner or keeper and not restrained.

(b) Violations.

(1) A first finding of violation of this section shall be punishable as a misdemeanor infraction.

(2) A subsequent finding of violation within one calendar year of a first finding shall be punishable as a misdemeanor offense.

(3) An animal at large is subject to impoundment prior to a finding of violation.

(Ord. No. 33, 2019, exh. A, § 7.08.050, 8-6-2019)

Sec. 10-57. Noise.

(a) Unless mitigating circumstances exist, an owner or keeper of an animal is prohibited from allowing an animal to make a loud, persistent or continuous noise, including barking, whining, howling, squawking or yelping, when the noise is plainly audible beyond the premises on which the animal is owned or kept for a consecutive period in excess of ten minutes during the day (7:00 a.m. to 9:00 p.m.) or for a consecutive period in excess of five minutes during the night (9:01 p.m. to 6:59 a.m.) and/or a cumulative period in excess of 90 minutes during any 24-hour period.

(b) Any finding of violation of this section shall be a misdemeanor infraction.

(Ord. No. 33, 2019, exh. A, § 7.08.060, 8-6-2019)

Sec. 10-58. Dangerous animal.

(a) The owning or keeping of a dangerous animal, except as provided in chapter 7 of this title, is prohibited. Any finding of a violation of this section shall be a misdemeanor offense. A dangerous animal is subject to impoundment prior to a finding of violation.

(b) It is a defense to a violation of owning or keeping a dangerous animal that the animal attacked, bit or chased a person because that person was:

(1) Attacking the animal or engaging in conduct reasonably calculated to provoke an animal to attack, bite or chase;

(2) Engaged in unlawfully entering an enclosed portion of the premises upon which the animal was lawfully kept;

(3) Engaged in unlawfully entering a vehicle in which the animal was confined;

(4) Attempting to injure another person, including the owner or keeper;

(5) Attempting to stop a fight between the animal and another animal;

(6) Attempting to aid the animal when the animal was injured; or

(7) Attempting to capture the animal in the absence of the owner or keeper, with the exception of an animal control officer or other law enforcement agent.

(c) It is a defense to a violation of owning or keeping a dangerous animal that the animal attacked, bit or chased another animal because it was:

(1) Defending itself;

(2) Defending its young; or

(3) Defending a person, including the owner or keeper.

(Ord. No. 33, 2019, exh. A, § 7.08.070, 8-6-2019)

Sec. 10-59. Animal fighting.

Sponsoring, arranging, holding, encouraging, instigating or permitting a fight between animals, or between animals and humans, for the purpose of monetary gain or entertainment is prohibited. Any finding of violation of this section shall be a misdemeanor offense. Animals used in animal fighting are subject to impoundment prior to a finding of violation.

(Ord. No. 33, 2019, exh. A, § 7.08.080, 8-6-2019)

Sec. 10-60. Poison exposure.

No person may knowingly expose an animal to any known poisonous substance. Any finding of violation of this section shall be a misdemeanor offense.

(Ord. No. 33, 2019, exh. A, § 7.08.090, 8-6-2019)

Sec. 10-61. Trap setting.

(a) Setting a steel-jaw trap or any other type of trap that is designed to kill, injure or maim an animal is prohibited. Any finding of violation of this section shall be a misdemeanor offense.

(b) In addition to the penalty set out above, unlawfully set traps may be confiscated and destroyed by authorized personnel.

(Ord. No. 33, 2019, exh. A, § 7.08.100, 8-6-2019)

Sec. 10-62. Wild birds.

(a) Except pursuant to a revocable hunting permit issued pursuant to chapter 11 of this title, frightening, shooting at, wounding, killing, capturing, ensnaring, trapping, netting, poisoning or otherwise disturbing a wild bird or its nest, eggs or young is prohibited. Any finding of violation of this section shall be a misdemeanor infraction.

(b) The entire area within the corporate limits of the city is a bird sanctuary for the refuge of all wild birds, and all persons within the city are urged to protect wild birds and encourage their propagation and refuge within the sanctuary.

(Ord. No. 33, 2019, exh. A, § 7.08.110, 8-6-2019)

Sec. 10-63. Food or beverage premises.

It is prohibited for an owner or keeper to allow an animal upon premises open to the public where food or beverages are prepared, stored or sold. This section does not apply to service animals or animals assisting law enforcement. Any finding of violation of this section shall be a misdemeanor infraction.

(Ord. No. 33, 2019, exh. A, § 7.08.120, 8-6-2019)

Sec. 10-64. Damage to property.

It is prohibited for an owner or keeper to allow an animal to damage the property of another, including public property. Any finding of violation of this section shall be a misdemeanor infraction.

(Ord. No. 33, 2019, exh. A, § 7.08.130, 8-6-2019)

Sec. 10-65. Animal waste removal.

The owner or keeper of an animal shall immediately remove any feces deposited by the animal upon the property of another, including public property and common areas. Any finding of violation of the section shall be a misdemeanor infraction.

(Ord. No. 33, 2019, exh. A, § 7.08.140, 8-6-2019)

Sec. 10-66. City parks or recreational areas.

(a) No person may take an animal into a city park or recreational area in which notices excluding animals have been posted by the city. Where animals are not excluded, the animal shall be restrained and allowed only on a public walkway adjacent to the park or recreational area.

(b) This section does not apply to service animals or animals assisting law enforcement.

(c) Any finding of violation of this section shall be a misdemeanor infraction.

(Ord. No. 33, 2019, exh. A, § 7.08.150, 8-6-2019)

Sec. 10-67. Confining in a vehicle.

(a) An owner or keeper of an animal is prohibited from confining the animal inside a vehicle located on a street or in a parking lot for more than 30 minutes. However, confining an animal inside a vehicle located on a street or in a parking lot for any period of time so as to create a danger to the wellbeing of the animal is prohibited. Danger to the wellbeing of the animal is created when:

(1) The outdoor temperature is more than 90 degrees Fahrenheit;

(2) The animal does not have access to sufficient water;

(3) The animal is tied within the vehicle in a manner which does not allow the animal to seek shelter from direct sunlight; and

(4) Cross-ventilation has not been provided by lowering at least two windows on either side of the vehicle by at least two inches.

(b) An owner or keeper is prohibited from confining an animal in the bed of a truck located on a street or in a parking lot for any period of time so as to create a danger to the wellbeing of the animal as described in subsections (a)(1) through (3) of this section.

(c) Any finding of a violation of this section shall be a misdemeanor offense. A confined animal is subject to impoundment prior to a finding of violation. The animal control officer has the authority to enter a vehicle or truck bed, including forcing entry into a locked vehicle to render emergency assistance to or remove an animal to protect its wellbeing, pursuant to this section and state law.

(Ord. No. 33, 2019, exh. A, § 7.08.160, 8-6-2019)

Secs. 10-68--10-87. Reserved.

CHAPTER 4. IMPOUNDMENT

Sec. 10-88. Animals subject to impoundment.

(a) An animal owned or kept by a person with a finding of violation of a section of this title punishable as a misdemeanor offense may be taken into custody by an impound agency in the discretion of the municipal court.

(b) An animal may be impounded before a finding of violation when:

(1) An animal is at large;

(2) An animal control officer reasonably believes that the animal may compromise the public health, safety and welfare of persons in the city;

(3) An animal control officer reasonably believes the life of the animal is endangered; or

(4) The owner or keeper of the animal has been issued a summons, complaint or penalty assessment for an alleged violation of section 10-58 or chapter 5 of this title, 7 of this title or 9 of this title.

(c) It is a violation of section 10-28 for the owner or keeper of an animal subject to impoundment to fail to produce the animal on demand of an animal control officer. Any finding of violation of this section shall be deemed a misdemeanor offense punishable pursuant to chapter 9 of title 1 of this Code.

(d) In all cases involving impoundment, a due process hearing will be conducted by the municipal court.

(Ord. No. 33, 2019, exh. A, § 7.15.010, 8-6-2019)

Sec. 10-89. Notice of impoundment and administrative due process impoundment hearing.

If the owner or keeper of the animal can be identified, then within 12 hours of impounding an animal, the owner or keeper shall be notified of the impoundment and right to a hearing by a notice delivered to the owner or keeper by telephone, electronic mail or written notice posted at a conspicuous place upon the owner's or keeper's premises.

(Ord. No. 33, 2019, exh. A, § 7.15.020, 8-6-2019)

Sec. 10-90. Due process hearing.

(a) No more than three days after impoundment, an administrative due process impoundment hearing will be set and the owner or keeper of the animal will be summoned to appear before the municipal court on the next available court date following impoundment.

(b) The hearing shall be conducted as an administrative hearing, pursuant to the procedures outlined in chapter 12 of title 2 of this Code.

(c) At the hearing, the court shall consider the following:

(1) The conduct of the animal during the incident charged;

(2) Evidence of aggressive or violent behavior by the animal;

(3) Prior violations by the owner or keeper of this title, this Code or the laws of any state or its political subdivisions involving an animal;

(4) Prior violations, involving the same animal, of this title, this Code or the laws of any state or its political subdivisions;

(5) Conditions existing on the premises where the animal has been or will be kept that increase the likelihood of any danger to any person or animal;

(6) Evidence of mitigating action taken by the owner or keeper of the animal that decreases the likelihood of any danger to any person or animal; and

(7) Evidence relevant to the justification or lack of justification for impoundment as determined by the court.

(d) No evidence presented to the court in connection with the administrative due process impoundment hearing shall be used in the prosecution of alleged violations of this title.

(e) At the hearing, the court shall determine whether, by a preponderance of the evidence, there was justification for the impoundment. The determination shall have no effect upon the validity of the summons, complaint and penalty assessment, and the owner or keeper may still be found, at trial, to have violated this title.

(f) If the court finds, by a preponderance of the evidence, that the impoundment was justified:

(1) Except when its owner or keeper is subject to prosecution for alleged violations specified in section 10-88(b)(4), the animal may be released to the owner or keeper if, within ten days of the hearing date, the owner or keeper deposits with the court as security the fair, reasonable and necessary costs of care as determined by the court. If the court determines, based upon a credible showing, that the owner or keeper is indigent, the court may reduce or eliminate the deposit payment requirement; or

(2) If the owner or keeper is not indigent but elects not to deposit security to pay the costs of care during the impoundment, the court shall determine that ownership of the animal has been relinquished and release the animal to the impound agency for disposition; and

(3) The court may order an animal to remain impounded until after the alleged violation has been adjudicated. If a finding of violation results, the animal shall not be released to the owner or keeper.

(g) If the court finds, by a preponderance of the evidence, that the impoundment was not justified:

(1) The animal shall be released to the owner or keeper. No deposit payment shall be required, but a dog or cat released to a person residing in the city must become licensed pursuant to chapter 6 of this title within 15 days of the release; and

(2) If an animal is not reclaimed within five days after being eligible for release from impoundment, the court shall determine that ownership of the animal has been relinquished and release the animal to the impound agency for disposition.

(h) If the owner or keeper does not appear at the hearing, the court shall find, without the necessity of conducting the hearing, that the impoundment was justified and order the owner or keeper to deposit with the court as security the fair, reasonable and necessary costs of care as determined by the court within ten days of the hearing date.

(Ord. No. 33, 2019, exh. A, § 7.15.030, 8-6-2019)

Sec. 10-91. Costs of care during impoundment.

(a) Because payment of the costs of care is a reimbursement to the impound agency for actual funds expended, unless a determination of indigency has been made pursuant to section 10-90(f)(1), the owner or keeper of an impounded animal shall be liable for the reasonable costs of care during the impoundment, including veterinary costs, even if the municipal court has determined that ownership of the animal has been relinquished and the animal has been released to the impound agency for disposition.

(b) The owner or keeper of an impounded animal shall not be liable for the reasonable costs of care during the impoundment if:

(1) The court determines at the administrative due process impoundment hearing that the impoundment was unjustified; or

(2) The owner or keeper is not convicted of any violation of this title.

(Ord. No. 33, 2019, exh. A, § 7.15.040, 8-6-2019)

Sec. 10-92. Humane destruction.

Notwithstanding the time periods provided in this chapter, if, in the judgment of the impound agency, an animal is injured, disabled or diseased beyond recovery, or pursuant to court order, the animal may be humanely destroyed. The humane destruction of the animal shall not relieve the owner or keeper of the obligation to pay the fair, reasonable and necessary costs of care.

(Ord. No. 33, 2019, exh. A, § 7.15.050, 8-6-2019)

Secs. 10-93--10-112. Reserved.

CHAPTER 5. RABIES CONTROL

Sec. 10-113. Rabies vaccination.

A dog or cat over the age of six months shall be vaccinated against rabies by a licensed veterinarian, and the owner shall obtain from the veterinarian a rabies vaccination certificate and rabies tag.

(Ord. No. 33, 2019, exh. A, § 7.16.010, 8-6-2019)

Sec. 10-114. Wearing rabies tags.

A dog or cat shall display the rabies tag issued according to this chapter at all times when it is off the premises of the owner or keeper.

(Ord. No. 33, 2019, exh. A, § 7.16.020, 8-6-2019)

Sec. 10-115. Reporting bites.

A person having knowledge that an animal has bitten a human being shall immediately report the bite to an animal control officer and provide any further information requested by the officer.

(Ord. No. 33, 2019, exh. A, § 7.16.030, 8-6-2019)

Sec. 10-116. Reporting rabies cases.

A person suspecting that an animal has rabies or has been exposed to rabies or having knowledge of a positively diagnosed occurrence of rabies, shall immediately report the information to an animal control officer and provide any further information requested by the officer.

(Ord. No. 33, 2019, exh. A, § 7.16.040, 8-6-2019)

Sec. 10-117. Quarantine.

(a) An animal required to have a rabies vaccination certificate and rabies tag that bites a human being or is suspected of having been exposed to rabies shall be quarantined for an observation period of at least ten days unless otherwise required by the current Compendium of Animal Rabies Prevention and Control published yearly by the National Association of State Public Health Veterinarians.

(1) The animal shall be quarantined at the premises of the owner or a veterinary hospital of the owner's choice; or

(2) If the owner refuses to quarantine or cannot be immediately identified, the animal shall be quarantined, at the expense of the owner, at the animal shelter.

(b) An animal quarantined because of a bite or suspicion of rabies exposure by the animal shelter shall not be released until the quarantine period is over, unless the owner or keeper shows proof that the animal was vaccinated against rabies at the time of the bite or exposure and pays the costs of care during quarantine, including veterinary costs.

(c) Failure to quarantine is a violation of this title. The owner shall consent to the entry of the premises in which an animal is being quarantined by the chief of police, for the purpose of ascertaining whether the provisions of this chapter have been and are being complied with. A finding of violation shall be deemed a misdemeanor offense punishable pursuant to chapter 9 of title 1 of this Code. In addition, an animal required to be quarantined but is not quarantined is subject to impoundment prior to a finding of violation.

(d) If a dog or cat is released from quarantine to a person residing in the city, the dog or cat must become licensed pursuant to this title within 15 days after the release. Failure to obtain a license within 15 days after release from quarantine shall be deemed a misdemeanor offense.

(Ord. No. 33, 2019, exh. A, § 7.16.050, 8-6-2019)

Sec. 10-118. Killing suspected or confirmed rabid animals.

No person shall kill any suspected or confirmed rabid animal without the prior written approval of an animal control officer, except in defense of a human being or another animal, or to prevent the escape of such suspected or confirmed rabid animal. This section does not apply to state or county health officials.

(Ord. No. 33, 2019, exh. A, § 7.16.060, 8-6-2019)

Sec. 10-119. Approval required for body removal.

No person shall remove the dead body of any suspected or confirmed rabid animal from where the animal was killed or found without the prior written approval of an animal control officer. This section does not apply to state or county health officials.

(Ord. No. 33, 2019, exh. A, § 7.16.070, 8-6-2019)

Sec. 10-120. Destruction of rabid animals.

If rabies has been detected by a veterinarian or medical doctor in any animal, the animal shall be humanely destroyed.

(Ord. No. 33, 2019, exh. A, § 7.16.080, 8-6-2019)

Sec. 10-121. City-wide quarantine by chief of police.

When there has been a positive diagnosis of rabies within the city, as determined by the county health department, the chief of police may declare a city-wide quarantine for a reasonable period of time not to exceed six months. During the period of such quarantine, an owner or keeper of any animal shall confine the animal within the premises of the owner and shall not transport, take or remove the animal from the city without the prior written approval of an animal control officer.

(Ord. No. 33, 2019, exh. A, § 7.16.090, 8-6-2019)

Secs. 10-122--10-140. Reserved.

CHAPTER 6. LICENSES

Sec. 10-141. License tag required.

The owner or keeper of a dog or cat over the age of six months owned or kept within the city shall obtain a license tag for such dog or cat in the manner specified in this chapter.

(Ord. No. 33, 2019, exh. A, § 7.20.010, 8-6-2019)

Sec. 10-142. License tag application.

(a) An owner or keeper shall apply for a dog or cat license tag at the finance department or at such other location as contracted for by the city within 14 days of acquiring possession of the dog or cat. The application shall be upon a form provided by the city and shall contain at least the following information:

(1) The name, address and telephone number of the owner;

(2) The call name, breed, color and sex of the animal;

(3) Proof of current rabies vaccination; and

(4) Documentation of animal neutering, if applicable.

The owner or keeper shall not knowingly make any material misrepresentation on the license application.

(b) Upon acceptance of the completed license application and after payment of the license fee, the staff of the finance department or such other person as contracted for by the city shall issue a durable tag stamped with an identifying number and year of expiration.

(Ord. No. 33, 2019, exh. A, § 7.20.020, 8-6-2019)

Sec. 10-143. Application fee.

The application fee and duration of the license tag shall be set in writing annually by the city manager as provided in section 1-38 of title 1 of this Code.

(Ord. No. 33, 2019, exh. A, § 7.20.030, 8-6-2019)

Sec. 10-144. Wearing license tags required.

Dogs and cats shall display the license tag issued pursuant to this chapter at all times while outside of the premises of the owner or keeper.

(Ord. No. 33, 2019, exh. A, § 7.20.040, 8-6-2019)

Sec. 10-145. Use by other than licensed animal prohibited.

No person shall use or permit the use of a license tag for an animal other than the animal for which such tag was issued.

(Ord. No. 33, 2019, exh. A, § 7.20.050, 8-6-2019)

Sec. 10-146. Replacement tag.

A duplicate replacement tag may be obtained upon payment of a fee, which amount shall be set in writing annually by the city manager.

(Ord. No. 33, 2019, exh. A, § 7.20.060, 8-6-2019)

Sec. 10-147. Record of tags issued.

The finance department shall maintain a record of all tags issued according to this chapter, and that record may be inspected by the public in accordance with the Colorado Open Records Act. Tags issued by an entity contracted for by the city shall be periodically reported to the finance department, and that record may be inspected by the public in accordance with the Colorado Open Records Act.

(Ord. No. 33, 2019, exh. A, § 7.20.070, 8-6-2019)

Sec. 10-148. Exceptions to requirements.

(a) Service animals and animals assisting law enforcement are excepted from the licensing requirements of this chapter. Any owner or keeper claiming these exceptions has the burden of proving to the satisfaction of the city that he is entitled to such exception.

(b) Animal establishments licensed pursuant to chapter 8 of this title are excepted from the license tag requirements of this chapter.

(Ord. No. 33, 2019, exh. A, § 7.20.080, 8-6-2019)

Sec. 10-149. Violations.

Any finding of violation of this chapter shall be deemed a misdemeanor infraction punishable pursuant to chapters 9 and 10 of title 1 of this Code.

(Ord. No. 33, 2019, exh. A, § 7.20.090, 8-6-2019)

Secs. 10-150--10-166. Reserved.

CHAPTER 7. GUARD DOGS

Sec. 10-167. Permit required.

An owner or keeper of a guard dog shall obtain a permit, in the manner specified in this chapter, for each premises where a guard dog is proposed to be used.

(Ord. No. 33, 2019, exh. A, § 7.22.010, 8-6-2019)

Sec. 10-168. Permit application.

(a) An owner or keeper of a guard dog shall apply for a permit to the chief of police. The application shall be upon a form provided by the chief of police and shall contain at least the following information:

(1) The name, address and telephone number of the owner;

(2) The name, address and telephone number of the person who is the handler of the guard dog;

(3) Proof of current rabies vaccination;

(4) The address of the premises where the guard dog is proposed to be used; and

(5) Proof of the following insurance:

a. A policy, issued by a company authorized to do business in Colorado, insuring the applicant/permittee and the city and its authorized personnel, and protecting, defending and holding harmless the city and its authorized personnel from and against claims, suits and demands, whether frivolous or otherwise, caused by or arising out of injury, death or property damage to third persons caused by the permittee's guard dog.

b. The insurance policy shall provide for coverage in the minimum amount of $1,000,000.00 for injury to or death of any person, $3,000,000.00 for injuries or deaths in any one occurrence or incident, and third-person property damage in the amount of $5,000.00.

c. The insurance policy shall provide that 30 days' advance notice of any cancellation shall be given by the insurance company, in writing, to the city clerk and the chief of police.

(b) The applicant shall not knowingly make any material misrepresentation on the permit application.

(c) Upon acceptance of the completed permit application, the chief of police may issue the permit, and a copy of the permittee's insurance policy shall be filed with the city clerk. The permit may include any additional reasonable conditions which are deemed necessary to protect the public safety. The additional conditions may include:

(1) Anti-escape devices in addition to the fence required by this chapter; and

(2) Sight barriers.

(Ord. No. 33, 2019, exh. A, § 7.22.020, 8-6-2019)

Sec. 10-169. Application fee.

The application fee and duration of the permit shall be set in writing annually by the city manager as provided in section 1-38 of title 1 of this Code.

(Ord. No. 33, 2019, exh. A, § 7.22.030, 8-6-2019)

Sec. 10-170. Premises requirements.

A guard dog may not be used or located at a premises unless all of the following have been met:

(1) All gates and entrances to the area where the guard dog is housed, used, located or trained shall be kept closed and locked when not in use.

(2) Where guard dogs are to be used or located outside of buildings, the area guarded must be enclosed by at least a ten-foot-high chain-link fence.

(3) The posting of signs reading "DANGER! GUARD DOG!" printed with letters not less than two inches high shall be posted not more than 100 feet apart along the perimeter of the premises and shall be posted at all premises corners and at every entrance into the building yard. The chief of police may also require such signs to be illuminated to the degree deemed necessary to ensure that they are readily visible and readable at night.

(Ord. No. 33, 2019, exh. A, § 7.22.040, 8-6-2019)

Sec. 10-171. Vehicle requirements.

Vehicles used in transporting guard dogs shall be modified and screened to protect the public from accidental contact with the guard dog.

(Ord. No. 33, 2019, exh. A, § 7.22.050, 8-6-2019)

Sec. 10-172. Inspection authority of police.

The permittee shall consent to the entry of the premises in which guard dogs are used or located by the chief of police, for the purpose of ascertaining whether the provisions of this chapter have been and are being complied with.

(Ord. No. 33, 2019, exh. A, § 7.22.060, 8-6-2019)

Sec. 10-173. Transfer of permit location.

An unexpired permit may be transferred to a new premises operated by the same permittee; provided, however, that no such transfer is allowed until the chief of police has inspected and approved the facilities at the new premises.

(Ord. No. 33, 2019, exh. A, § 7.22.070, 8-6-2019)

Sec. 10-174. Animals assisting law enforcement.

This chapter does not apply to animals assisting law enforcement.

(Ord. No. 33, 2019, exh. A, § 7.22.080, 8-6-2019)

Sec. 10-175. Violations.

A finding of violation of any of the provisions of this chapter shall be deemed a misdemeanor offense punishable pursuant to chapter 9 of title 1 of this Code and may include revocation of the permit. In addition, an unpermitted guard dog is subject to impoundment prior to a finding of violation.

(Ord. No. 33, 2019, exh. A, § 7.22.090, 8-6-2019)

Secs. 10-176--10-203. Reserved.

CHAPTER 8. ANIMAL ESTABLISHMENTS

Sec. 10-204. Animal establishments.

No person shall own or operate an animal establishment without having first obtained land use approval pursuant to section 24-1159.

(Ord. No. 33, 2019, exh. A, § 7.24.010, 8-6-2019)

Sec. 10-205. State license required.

No person shall own or operate an animal establishment without a valid pet animal facility license issued by the commissioner of the state department of agriculture pursuant to C.R.S. §§ 35-80-101 through 35-80-117, entitled "Pet Animal Care and Facilities Act," with all subsequent amendments or supplements thereto.

(Ord. No. 33, 2019, exh. A, § 7.24.020, 8-6-2019)

Sec. 10-206. Violations.

A finding of violation of this chapter shall be deemed a misdemeanor infraction punishable pursuant to chapters 9 and 10 of title 1 of this Code and be reported to the commissioner of the state department of agriculture. In addition, a finding of violation may result in revocation of the animal establishment's land use approval.

(Ord. No. 33, 2019, exh. A, § 7.24.030, 8-6-2019)

Secs. 10-207--10-235. Reserved.

CHAPTER 9. WILD ANIMALS

Sec. 10-236. Keeping wild animals.

No person may keep a wild animal or wild bird unless such person has the permit or license described in section 10-237. Any finding of violation of the section shall be a misdemeanor offense, and the wild animal or wild bird is subject to impoundment prior to a finding of violation. This chapter does not apply to displays or exhibitions regulated elsewhere by state, county or federal law, including, but not limited to, zoological parks, performing animal exhibitions or circuses.

(Ord. No. 33, 2019, exh. A, § 7.28.010, 8-6-2019)

Sec. 10-237. Permit or license required for wild animals and wild birds.

No person shall keep or allow to be kept a wild animal or wild bird unless such person has received, from the state division of wildlife or a corresponding department or federal agency, a permit or license therefor.

(Ord. No. 33, 2019, exh. A, § 7.28.020, 8-6-2019)

Sec. 10-238. Authority of animal control officers.

An animal control officer has the authority to:

(1) Impound a wild animal or wild bird kept in violation of this title;

(2) Act as a "peace officer," as that term is defined in C.R.S. § 33-1-102(32), with all subsequent amendments or supplements thereto; and

(3) Take reasonable steps to ensure compliance with the requirements of the Federal Animal Welfare Act set forth under the Regulations and Standards in Title 9, Code of Federal Regulations (CFR), Chapter 1, Subchapter A--Animal Welfare.

(Ord. No. 33, 2019, exh. A, § 7.28.030, 8-6-2019)

Secs. 10-239--10-269. Reserved.

CHAPTER 10. SHIPPING OF LIVE FOWL

Sec. 10-270. Height of shipping and receiving containers.

Crates or cages in which live fowl are transported shall be sufficiently high so that birds confined therein can stand erect and hold their heads upright without touching the top.

(Ord. No. 33, 2019, exh. A, § 7.29.010, 8-6-2019)

Sec. 10-271. Construction of containers.

Crates and cages in which live fowl are transported shall be made of open slats or wire on at least three sides.

(Ord. No. 33, 2019, exh. A, § 7.29.020, 8-6-2019)

Sec. 10-272. Conditions in containers.

Crates or cages in which live fowl are transported shall be kept clean and have troughs or other receptacles in which sufficient food and sufficient water are constantly available and easily accessible by the birds. The fowl shall not be overcrowded and shall not be exposed to undue temperature extremes.

(Ord. No. 33, 2019, exh. A, § 7.29.030, 8-6-2019)

Sec. 10-273. Removal of dead, injured or diseased fowl required.

Dead, injured or diseased fowl shall be at once removed from containers.

(Ord. No. 33, 2019, exh. A, § 7.29.040, 8-6-2019)

Sec. 10-274. Transfer after receiving required.

If live fowl are received for sale or storage, they shall immediately be transferred to such crates or cages as are described in this chapter.

(Ord. No. 33, 2019, exh. A, § 7.29.050, 8-6-2019)

Sec. 10-275. Violations.

A finding of violation of this chapter shall be deemed a misdemeanor infraction punishable pursuant to chapters 9 and 10 of title 1 of the Code.

(Ord. No. 33, 2019, exh. A, § 7.29.060, 8-6-2019)

Secs. 10-276--10-298. Reserved.

CHAPTER 11. HUNTING

Sec. 10-299. Hunting not allowed.

Hunting without first obtaining a revocable permit issued by the city manager shall not be allowed within the city. Any finding of violation of this chapter shall be deemed a misdemeanor offense punishable pursuant to chapter 9 of title 1 of this Code.

(Ord. No. 33, 2019, exh. A, § 7.30.010, 8-6-2019)

Title 11

RESERVED

Title 12

PUBLIC HEALTH AND ENVIRONMENTAL CONTROL

~~Health and Safety~~

CHAPTER 1. IN GENERAL

~~Chapter 9.16 Hazards to Health and the Environment~~

Sec. 12-1. Manure regulations.

Other than a light spread of manure which may be applied on lawns or gardens for fertilizing purposes, it is unlawful to keep manure on any property for any purpose. Manure shall either be plowed under or removed by the owner, occupant or agent or otherwise managed as provided in section 12-105.

(Prior Code, § 13-123; Code 1994, § 9.16.010)

Sec. 12-2. Burning of refuse.

(a) *Definitions*. The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural land means any cultivated land, including ranching and the raising of livestock or the raising of livestock only as a commercial endeavor and, provided that more than 50 percent of the roughage type food, such as hay or ensilage, is provided by the owner on his immediate property.

Irrigation ditch means any active ditch where water rights are currently utilized.

Refuse means any garbage and all of the waste material or discarded or unused material, all rubbish of any kind or nature whatsoever and other materials commonly known as rubbish or refuse of any kind or character or by any means known, furniture or fixtures, appliances and other household equipment of such weight and dimension, size and shape that they can be handled by not more than two people, and all other useless, rejected and cast-off material.

(b) *Prohibitions*.

(1) It is unlawful for any person, firm, or corporation to set on fire or burn any refuse or other waste material in any receptacle or upon the ground except as described in subsection (b) of this section.

(2) It is unlawful for any person to burn weeds, leaves, limbs, trees, lawns, gardens, rubber tires, plastics, wire, insulation and other smoke-producing materials or other flammable materials except under the conditions of subsections (b) and (c) of this section.

(3) A person shall not construct, erect, install, maintain or use any incinerator or so burn any combustible material as to constitute or occasion a fire hazard by the use or burning thereof.

(c) *Exemptions*.

(1) Burning pursuant to and within the limitations of a permit issued under subsections (d) and (e) of this section shall be exempt from the foregoing restrictions.

(2) Fires for noncommercial cooking of food for human beings, inside fireplaces or stoves and outside barbecues shall be exempt from subsection (b)(1) of this section. Fireplace and barbecue fuel shall be limited to dry wood, coal, dry paper or smokeless fuel.

(3) Any exemption contained in this subsection shall constitute an affirmative defense to any alleged violation of subsection (b) of this section.

(d) *Permit*.

(1) A permit may be issued by the city for the purpose of agricultural burning. This burning shall consist of

and be limited to the burning of active irrigation or drainage ditches and fence rows. This is further limited to the burning of weeds and grass within the confines of the ditch (ditch bottom, inside walls and ditch bank). Fence row burning shall be limited to an area no wider than three feet from either side of the fence.

(2) A permit may be issued for the flaring of waste gas derived from the operation of any municipally-owned and operated sewer treatment facility.

(3) A permit may be issued for the flaring of natural gas when such burning is necessary to test the quality and volume of the production at the well site. During the course of testing, burning conducted pursuant to this permit may also be utilized to clean up the well by removal from the well bore and the productive formation of water, drilling fluids and materials used in connection with the completion or recompletion of the well or any stimulation thereof. Such a permit shall be issued under the following conditions and shall be revoked when any of these conditions do not exist:

a. All natural gas must be flared into a pit;

b. The entire flame resulting from the operation must be below ground level, including berms. If the administrative authority determines that the resulting flame is not below ground level, including berms, it shall notify the operator or producer immediately in writing. Within 48 hours from such notice, the flame must be brought into compliance with the provisions of this section;

c. All flaring must be conducted for well test purposes as noted above;

d. Any permit issued for natural gas flaring shall run for a period of 60 days from the date of issuance. Such permit shall be issued at the time that the necessary permits issued pursuant to the fire code are granted to the operator or producer. If no flaring is conducted within the 60-day period from the date of issuance, such permit may be renewed on a one-time basis for a period of 60 days. Actual flaring shall be limited to ten days within the 60-day period of the permit upon giving written notice thereof to the fire chief.

(4) A permit may be issued for instructional, recreational and ceremonial fires or for the burning of weeds, grass, gardens or leaves.

a. Applicants for burning permits must be in legal control of the lot or parcel of land on which the burning is to be done.

b. No person shall kindle or maintain any fire or authorize any such fire to be kindled or maintained on any private land unless the location is more than 50 feet from any structure and adequate provision is made to prevent fire from spreading to within 50 feet of any structure. Weeds that are to be burned are to be cut and gathered together in small piles no larger than five feet in diameter and separated at least 15 feet from other piles of weeds.

c. All fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply or other fire-extinguishing equipment readily available for use. The fire-extinguishing equipment shall be furnished by the applicants of the burning permit and shall be of adequate size and quantity to control the fire, as determined by the fire department. If adequate equipment to control the fire cannot be obtained by the applicant, the fire department will be notified to stand by until the fire has been extinguished, and a charge of $100.00 per hour will be charged for this service. The minimum charge will be $100.00.

d. Burning shall not occur, under permit or otherwise, which shall cause or create a dense smoke or odor to the extent it will be offensive to neighboring property owners.

e. No person shall kindle a fire upon the land of another without permission of the owner thereof or his agent.

f. All burning shall take place during hours approved by the fire chief. These hours shall be from one hour after sunrise to 4:30 p.m., Monday through Saturday only, unless specified otherwise in the burning permit.

(5) Prior to the issuance of any permit, the requesting party shall provide satisfactory proof that the proposed

burning will comply with all county environmental regulations and city fire codes.

(6) All burning permits shall be subject to a fee to help defray administrative expenses.

(7) During burning, all uniform fire code requirements must be complied with.

(e) *Administrative authority*.

(1) The fire authority shall be the administrative authority responsible for the issuance of any burning permit as outlined under this section. Such authority may revoke any permit pursuant to the provisions of this section if the burning is deemed a nuisance or a hazard. In reference to the flaring of oil and gas wells, such revocation may occur only after notice to correct has been submitted to the offending operator or producer. Such operator or producer shall have 48 hours within which to correct the defect. If such defect has not been corrected, the authority may proceed to revocation. The provisions regarding notice and the time period for correction shall not apply to any hazard which is deemed a threat to the health or safety of citizens of the community.

(2) The fire authority may prohibit any or all burning when atmospheric conditions or local circumstances make such fire hazardous.

(Prior Code, § 13-124; Code 1994, § 9.16.020; Ord. No. 29, 1981, § 3, 4-21-1981; Ord. No. 51, 1982, § 2, 8-17-1982; Ord. No. 10, 1983, § 2, 2-15-1983; Ord. No. 25, 1999, § 1(part), 6-15-1999; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 12-3. Stagnant or ~~unpure~~ impure water.

It is unlawful for any person, firm or corporation to maintain any building, structure or premises that contains stagnant or ~~unpure~~ impure water or water ponds that serve as the breeding place for mosquitoes, insects or rodents.

(Prior Code, § 13-125; Code 1994, § 9.16.030)

Sec. 12-4. Failure to pay a lien.

Failure to pay an assessment ~~as provided for at section 9.16.112~~ within such period of 30 days described therein shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time after such failure to so pay the same within 30 days, by the director of finance to the county treasurer, to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by the laws of the state.

(Code 1994, § 9.16.113; Ord. No. 19, 1988, § 1(part), 5-17-1988)

Sec. 12-5. Failure to pay assessment for city abatement.

Failure to pay an assessment ~~as provided for at section 9.16.122~~ within such period of 30 days described therein shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time after such failure to so pay the same within 30 days, by the director of finance to the county treasurer, to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by the laws of the state.

(Code 1994, § 9.16.123; Ord. No. 19, 1988, § 1(part), 5-17-1988)

Sec. 12-6. Owners; ultimate responsibility for violations.

Every owner remains liable for violations of responsibilities imposed upon him by this environmental sanitation code even though an obligation is also imposed on the occupants of his building or premises and even though the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this environmental sanitation code.

(Prior Code, § 13-133(part); Code 1994, § 9.16.130)

Sec. 12-7. Sanitary facilities responsibility.

Every owner shall, where required by this environmental sanitation code, furnish and maintain such approved sanitary facilities as required for the prevention of insect and rodent infestation and the infestation of noxious weeds

and other vegetation or the pollution of air or water.

(Prior Code, § 13-133(part); Code 1994, § 9.16.140; Ord. No. 25, 1999, § 2(part), 6-15-1999)

Sec. 12-8. Occupants; sanitation and disposal responsibilities.

Every occupant shall be responsible for keeping his dwelling, structure or premises which he occupies and controls in a clean, safe and sanitary condition and shall dispose of all his rubbish, refuse, garbage, animal feces and other organic waste, including growth from weeds, vegetation and trees, a minimum of once a week as required by this environmental sanitation code.

(Prior Code, § 13-133(part); Code 1994, § 9.16.150; Ord. No. 31, 2000, § 1, 8-1-2000)

Sec. 12-9. Businesses; removal of refuse required; explosive or inflammable materials disposal.

Discarded automobile parts, refuse of all kinds, wool, hides, junkyard refuse and packinghouse or slaughterhouse refuse shall be removed periodically from such respective establishments 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 or county disposal site by the establishment creating such deposit. Any accumulation of refuse that is highly explosive or inflammable, which might endanger life or property, shall be removed to such places as approved by the ~~administrative authority~~ city; such removal to be handled by the establishments therefor.

(Prior Code, § 13-135; Code 1994, § 9.16.160)

Sec. 12-10. Issuance of notice of violation; fees.

Issuance of notice of violation. The ~~administrative authority~~ city manager or designee may inspect any lot, block or parcel of ground within the city upon receipt of a complaint, from referral by another city department or upon observation during the normal course of duties, concerning fugitive dust or refuse accumulation. If, after inspection, ~~the administrative authority determines~~ it is determined that a violation exists, a notice of violation may be issued to the owner, tenant or agent of the lot, block or parcel, and the notice of violation may be issued without prior notice. If ~~the administrative authority cannot serve~~ the notice of violation cannot be served directly ~~to~~ on the owner, tenant, or agent, the notice of violation shall be served as set forth in ~~section 2.09.120~~ chapter 12 of title 2 of this Code.

(Code 1994, § 9.16.200; Ord. No. 66, 1986, § 2, 11-18-1986; Ord. No. 43, 1994, § 2, 11-1-1994; Ord. No. 25, 1999, § 2(part), 6-15-1999; Ord. No. 17, 2005, § 6, 3-1-2005; Ord. No. 46, 2006, § 1, 10-17-2006; Ord. No. 26, 2011, § 1, 9-6-2011; Ord. No. 42, 2011, § 1, 12-6-2011)

Sec. 12-11. ~~Sanctions~~ Violations.

(a) Any violation of this chapter shall be ~~a code infraction and sanctions shall be~~ punishable as set forth in chapter 10 of title 1 of this Code.

(b) For the purposes of assessing sanctions for repeated offenses pursuant to this section, the term "violation" includes each violation at any property or for an owner, agent or tenant regardless of property location within the city; and, the term "violation" is limited to a violation of the same Code section. Each repeat violation must be set forth on a notice of violation form and served as set forth in ~~subsection 2.09.120(d)~~ chapter 12 of title 2 of this Code.

(Code 1994, § 9.16.210; Ord. No. 30, 1990, § 1(part), 6-5-1990; Ord. No. 27, 2002, § 1, 4-16-2002; Ord. No. 18, 2005, §§ 1, 2, 3-1-2005; Ord. No. 46, 2006, § 1, 10-17-2006; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 12-12. Penalties; repeated offenses.

(a) Any person found guilty after trial or plea of guilt; Alford; nolo contendere; or deferred sentence plea to any provision of section 12-325 shall be guilty of a misdemeanor offense and fined not less than $1,000.00, plus any additional penalties assessed pursuant to chapter 9 of title 1 of this Code, except as provided in subsection (b) of this section.

(b) A fine may be reduced to $250.00 if the guilty party agrees to attend city-sponsored training related to neighborhood conduct and perform 15 hours of community service within the city, as so approved by the municipal court, within three months following his sentencing.

(c) A repeat offense that occurs within 365 days from the date of a finding of guilt pursuant to this section shall cause the full amount of the penalty as may be modified under subsection (b) of this section to be immediately reinstated in full.

(d) For the purposes of assessing penalties for repeated offenses pursuant to this section, the term "violation" includes each violation at any property or for a tenant, regardless of property location within the city; and the term "violation" is limited to a violation of the same Code section number.

(Prior Code, § 15-136; Code 1994, § 9.24.050; Ord. No. 73, 1981, § 2, 11-3-1981; Ord. No. 56, 1994, § 1, 12-20-1994; Ord. No. 7, 2006, § 1, 3-7-2006)

Secs. 12-13--12-40. Reserved.

~~**Article II Noise**~~

CHAPTER 2. AIR QUALITY

ARTICLE I. GENERALLY

~~Chapter 9.52 Air Quality~~

Sec. 12-68. Legislative findings and intent.

(a) The city council finds that air pollution in the form of odor and particulate contaminants presents a threat to the health, safety and welfare of the inhabitants of the city.

(b) It is the intent of the city council to regulate activities contributing to the degradation of the air quality within the city limits in order to preserve the health, safety and welfare of its inhabitants.

(c) It is the intent of the city council to initiate a public awareness program concerning the use of wood stoves, to include burning of trash or wet wood, overall operation of wood stoves and the like, and the promotion of mass transit and alternative modes of travel to motorized or petroleum-fueled vehicles.

(d) It is the intent of the city council to ensure that activities and operations which involve the manufacture of products, processing or preparation of agricultural products, including food processing, feeding or containment of animals, waste treatment, or any other activities or operations which may have as a byproduct the emission of odors, dust particulates or waste shall be conducted in such a way as to prevent release of offensive odors from the site and to protect surface water, ground water and air quality through application of appropriate management practices.

(Code 1994, § 9.52.010; Ord. No. 46, 1987, § 1(part), 9-15-1987; Ord. No. 55, 1995, § 1(part), 10-17-1995; Ord. No. 81, 2001, 10-16-2001)

Sec. 12-69. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal feeding operation means a confined animal- or poultry-growing operation (facility) for meat, milk or egg production or stabling wherein livestock are fed at the place of confinement for 45 days or longer in any 12-month period and crop or forage growth is not maintained in the area of confinement, and the average working capacity is five or more animal units.

Animal unit means a unit of measurement used to determine the animal capacity of an animal-feeding operation. The animal unit capacity of an operation is determined by multiplying the number of animals of each species by the appropriate equivalency factor from Table 12-69.1 and summing the resulting totals for all animal species contained in the operation.

TABLE 12-69.1

Animal Unit Equivalency Factors

Animal Species	*Equivalency Factor*

Slaughter and feed cattle	1.0
Mature dairy cattle	1.4
Swine, butcher and breeding (>55 lbs.)	0.2
Sheep lambs, goats	0.2
Turkeys	0.02
Chickens, broiler and layer	0.01
Young stock, less than 50 percent of adult weight, reduces the above equivalency factor by one-half	

Atmosphere means all space outside of buildings, stacks or exterior ducts.

Average working capacity means the average occupancy of the animal feeding operation on a monthly basis defined as the sum of the daily occupancy rates divided by the number of days during a calendar month the facility conducts animal feeding operations.

Best available control technology (BACT) means the practical utilization of those technologies, processes, procedures or operating methods by an industry or other source which results in the elimination or the maximum achievable reduction of odor pollution from an odor emission point source sufficient to maintain compliance with the standards established by the air quality and natural resources commission.

Best management practices (BMP) means practical activities, procedures or practices necessary for achieving air quality (including odor) and water quality to achieve minimum compliance with the standards established by the air quality and natural resources commission.

Emission or *emit* means to discharge or release or permit or cause the discharge or release of one or more air contaminants into the atmosphere.

Enforcement official means the city manager or his designee.

Facility odor management plan means an agreement between a significant odor generator and the city, or between the city and an emission source which voluntarily submits such plan under section 12-103, which contains the following elements:

(1) An inventory of potential or identified odor emission point sources associated with the industry or source.

(2) A plan of technical quality detailing best available and practical control technologies and appurtenances designed to eliminate or achieve the maximum reduction of odor pollution from an emission point source, inclusive of, but not limited to, certain technologies, processes, procedures, operating methods or work practices intended to mitigate or control odor pollution.

(3) A detailed explanation of the specifications and operating parameters of the best available and practical control technologies, monitoring instrumentation, equipment, processes and procedures intended for the mitigation or control of odor pollution.

(4) A specification of the documentation which will be made available for the city's review recording the data produced by the monitoring equipment and which will verify that process and procedures are conducted consistent with the specifications in the facility's odor control study and plan.

(5) An approved schedule which states in a time-certain manner the implementation and installation of the best available control technology, process, procedures, operating methods and monitoring instrumentation designed to mitigate or control odors at the facility inclusive of an approved completion date.

(6) An acknowledgement of the authority of the city and its agents to enter into the facility or its property to investigate complaints and to verify the facility's adherence to the facility odor management plan upon presentation of proper credentials and in a manner as set forth in section 12-106.

High pollution day means that period of time declared to be a high pollution day by the county health

department.

Manure means feces, urine, litter, bedding or feed waste from animal feeding operations or from any livestock or animals contained in an area.

No discharge means no discharge of manure or process wastewater to waters of the state except in the event of a 25-year, 24-hour event.

Odor or *odorous air contaminants* shall mean any fume, smoke, vapor, gas, suspended solid or liquid matter, or any combination thereof, which contains properties or elements detectable by the sense of smell.

Odor control permit means a permit issued by the Air Quality and Natural Resource Commission to a significant odor generator upon the finding of a satisfactory facility odor management plan for management of odors from a particular property.

Particulate air contaminants means visible, manmade or process-made dusts with an aerodynamic diameter not more than a nominal ten microns (PM-10).

Person means any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user or owner or any representative, officer or employee thereof. Any person or entity or combination of persons or entities may be jointly or severally liable for causing air emissions above currently permitted levels.

Process wastewater or *wastewater* means any process-generated wastewater and any precipitation (rain, hail or snow) which comes into contact with any manure or any other raw material or intermediate or final material or product used in or resulting from the production of animals or poultry or their direct products (e.g., milk, eggs).

Receptor means any occupied dwelling (occupied as a primary dwelling), garage or yard area, public or private school or place of business.

Significant odor generator means an industry, facility or other source which has been identified by the commission or its designee as the cause of odorous air contaminants which have been experienced off-site from the principal operation and for which a facility odor management plan is so required.

Sole source of heat means one or more residential solid-fuel-fired heating devices which constitute the only source of heat in a private residence for the purposes of space heating. No residential solid-fuel-fired heating device shall be considered to be the sole source of heat if the private residence is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity or propane, whether connected or disconnected from its energy source.

Solid-fuel-fired heating device means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building and includes solid-fuel-fired stoves, fireplaces, inserts and combination fuel furnaces or boilers which burn solid fuel. For the purposes of this chapter, coal shall be considered a solid fuel. Solid-fuel-fired heating devices do not include barbecue devices or natural gas-fired fireplace logs.

25-year, 24-hour storm means a storm of a 24-hour duration which yields a total precipitation of a magnitude which has a probability of recurring once every 25 years as shown in ~~Appendix A~~ Table 12-69.2 below.

~~APPENDIX 9-A~~ Table 12-69.2. Runoff for Inches of Rainfall: 25-Year, 24-Hour Event

Inches	*Tenths*									
	0	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9
0		0	0.04	0.1	0.18	0.26	0.34	0.43	0.52	0.61
1	0.71	0.8	0.9	0.99	1.09	1.18	1.28	1.38	1.48	1.57
2	1.67	1.77	1.87	1.97	2.07	2.16	2.26	2.36	2.46	2.56
3	2.66	2.76	2.86	2.96	3.06	3.15	3.25	3.35	3.45	3.55
4	3.65	3.75	3.85	3.95	4.05	4.15	4.25	4.35	4.45	4.55
5	4.65	4.75	4.85	4.95	5.05	5.15	5.25	5.35	5.44	5.54

6	5.64	5.74	5.84	5.94	6.04	6.14	6.24	6.34	6.44	6.54
7	6.64	6.74	6.84	6.94	7.04	7.14	7.24	7.34	7.44	7.54
8	7.64	7.74	7.84	7.94	8.04	8.14	8.24	8.34	8.44	8.54
9	8.64	8.74	8.84	8.94	9.04	9.14	9.24	9.34	9.44	9.54
10	9.64	9.74	9.84	9.94	10.04	10.14	10.24	10.34	10.44	10.54
11	10.64	10.74	10.84	10.94	11.04	11.14	11.24	11.34	11.44	11.54
12	11.64	11.74	11.84	11.94	12.04	12.14	12.24	12.34	12.44	12.54
13	12.64	12.74	12.84	12.94	13.04	13.14	13.24	13.34	13.44	13.54
14	13.64	13.74	13.84	13.94	14.04	14.14	14.24	14.34	14.44	14.54
15	14.64	14.74	14.84	14.94	15.04	15.14	15.24	15.34	15.44	15.54
16	15.64	15.74	15.83	15.93	16.03	16.13	16.23	16.33	16.43	16.53
17	16.63	16.73	16.83	16.93	17.03	17.13	17.23	17.33	17.43	17.53
18	17.63	17.73	17.83	17.93	18.03	18.13	18.23	18.33	18.43	18.53
19	18.63	18.73	18.83	18.93	19.03	19.13	19.23	19.33	19.43	19.53
20	19.63	19.73	19.83	19.93	20.03	20.13	20.23	20.33	20.43	20.53

NOTE: Runoff value determined by equation $Q = \frac{(P-0.2\,S)^2}{P + 0.8\,S}$

REFERENCE: 5 Code Colorado Regulations 1002-19, 1994

(Code 1994, § 9.52.020, ch. 9.52, app. 9-A; Ord. No. 46, 1987, § 1(part), 9-15-1987; Ord. No. 55, 1995, § 1(part), 10-17-1995; Ord. No. 81, 2001, § 1, 10-16-2001)

Sec. 12-70. Formation of air quality and natural resources commission; members; terms; replacement and removal.

(a) *Commission established*. There is hereby established an air quality and natural resources commission, the purpose of which is to regulate air quality and related matters as authorized by this chapter, to advise the city council on matters related to air quality and related natural resources, and in accordance with the powers and duties set forth in this section. The commission shall be comprised of seven members of the planning commission (who also serve the city in the capacity of plant management advisory commission pursuant to this chapter), all of whom shall be residents of the city.

(b) *Powers and duties*. The commission shall have the powers and duties to:

(1) Develop and recommend an odor management plan for the city and its environs which shall be reviewed no less than every three years and which shall be transmitted to city council for approval, modification or rejection.

(2) Review odor complaints and formally designate those sources determined to be significant odor generators.

(3) Issue odor control permits.

(4) Consider appeals to staff actions taken in response to odor complaints.

(5) Perform other such duties as may be prescribed by city council or as defined further in commission rules of procedure.

(Code 1994, § 9.52.023; Ord. No. 55, 1995, § 1(part), 10-17-1995; Ord. No. 25, 1999, § 4(part), 6-15-1999; Ord. No. 81, 2001, § 1, 10-16-2001; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 18, 2006, § 2, 5-2-2006; Ord. No. 09, 2010, § 2, 4-6-2010; Ord. No. 10, 2010, § 1, 4-6-2010)

Sec. 12-71. Fees.

(a) A fee shall accompany an initial application for an odor control permit for a significant odor generator as part of a required facility odor management plan or with the submittal of a voluntary facility odor management plan for consideration by the Air Quality and Natural Resource Commission. The amount of the fee shall be determined in accordance with section 1-38.

(b) Renewal fees shall be assessed according to a schedule in accordance with section 1-38.

(c) No new or additional fee shall be assessed a significant odor generator with a transfer of ownership of the source so long as the new owner confirms in writing his intention to operate the source within the specifications and provisions of the existing facility odor management plan and updates all source information related to ownership and management personnel.

(Code 1994, § 9.52.040; Ord. No. 55, 1995, § 1(part), 10-17-1995; Ord. No. 81, 2001, 10-16-2001; Ord. No. 26, 2011, § 1, 9-6-2011)

~~**Sec. 9.52.042. General provision.**~~

~~In the event of any conflict between this chapter and any other provision of this Code, the more restrictive provision shall apply.~~

~~(Ord. No. 81, 2001 § 1; Ord. No. 55, 1995 § 1(part))~~

Secs. 12-72--12-100. Reserved.

ARTICLE II. ODOR POLLUTION PROGRAM

Sec. 12-101. Air quality standards and violations.

(a) *Stale matter*. No person whatsoever 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 stale matter in such a way as to be experienced as an odor alert condition at or beyond the property line, other than normal weekly trash accumulation.

(b) *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 whatever that might cause such sewer, sewer inlet or privy vault to become nauseous to others or injurious to public health.

(c) *Transporting of garbage, manure*. Every cart or vehicle 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 or observable to the olfactory senses.

(d) *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 substances, or both, any dead animal, excrement, garbage or other offensive matter whatever upon any street, avenue, alley, sidewalk or public or private grounds. No person shall, in the city, throw or deposit or cause or permit to be thrown or deposited 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.

(e) *Dead animal; removal*. When any animal shall die in the city, it shall be the duty of the owner or keeper thereof to remove or properly dispose of the body of such animal promptly. If such body shall not promptly be removed, the same shall be deemed a nuisance, and such owner or keeper will be the author of the nuisance. When the body of any such dead animal shall be in any street, highway or public grounds in the city, it shall be the duty of the city animal control officer to cause such body to be removed promptly. Removal of a dead animal from any private property, where the owner or occupant fails to act, shall cause the city code enforcement officer to respond ~~in accordance with section 9.16.121~~. Any cost for such disposal shall be assessed to the owner of such animal, if known, or landowner where such animal is located, if the landowner is deemed the party responsible for care and control of the animal.

(f) *Animal pens and barns*. Any area in which animals are kept in which manure or liquid discharges of such animals shall collect and accumulate so that offensive odor shall be allowed to propagate and/or where flies and

rodents are unreasonably attracted shall be declared a nuisance and is prohibited. Such limitations shall extend to all such uses, including, but not limited to, animal feeding operations, stables, kennels and pet care, boarding and sale operations, whether of a personal or commercial nature and regardless of historic establishment as a land use.

(g) *Stagnant ponds*. 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 nuisance accumulating thereon, and it shall be unlawful for any such owner or occupant to permit or maintain any such nuisance.

(h) *Manure and waste accumulation; application*. Except as provided at section 12-1, no manure or other such waste products, whether of a solid or liquid form, may be accumulated or permitted as a land application such as for soil fertilization or for dust abatement or control in any fashion within the city. Within any animal feeding or containment operations or industrial use where animal (or human) waste products accumulate or are processed, removal of waste products must occur regularly to prevent observation of odor at or beyond the property boundaries of the source of the waste.

(i) *Odor-control equipment; continuous operation*. Except as provided in subsection (k) of this section, it shall be unlawful for any odor-control equipment such as, but not limited to, wastewater lagoon aerators, air scrubbers or filters, for industrial facilities to be out of operation while a source which generates the odor is in operation.

(j) *Nuisance.* It shall be deemed an unlawful nuisance for any person to cause or permit the emission of odorous air contaminants or particulate air contaminants from any source such as to result in detectable odors and/or particulate emissions within the city, as defined above, which leave the premises upon which they originated and which interfere with the reasonable and comfortable use and enjoyment of property. An odor is deemed to interfere with reasonable and comfortable use and enjoyment of property if it is detectable by a trained observer and if it meets or exceeds any of the following limits:

(1) It is an odor alert condition and a violation if odorous contaminants are detected when one volume of the odorous air has been diluted with seven or more volumes of odor-free air or beyond the property boundary from which the emission originates.

a. In order to determine the source of the odorous emission, two odor measurements shall be made within a period of one hour, these measurements being separated by at least 15 minutes. These measurements shall be made at or beyond the property boundary or at the receptor and shall be made both upwind and downwind of the possible source in order to verify the source and intensity.

b. The Barnebey-Chaney Scentometer or any other instrument, device or technique designated by the state air pollution control division may be used in the determination of the intensity of an odor and in the enforcement of the ordinance codified herein.

c. Personnel shall be certified and equipment shall be certified and maintained in accordance with the specifications and recommendations of the manufacturer and the state air pollution control division.

(2) It is considered an odor alert condition and a violation exists when the city is in receipt of three or more calls from individuals representing separate properties within the city within a six-hour period relating to a single odor description. The city shall provide a designated phone number to call to report an odor complaint. The complaints shall be recorded by a staff member or by electronic means and shall be considered as an individual odor complaint when the following information is provided:

a. Name, address and telephone number of complainant.

b. Time and date of call.

c. Description of odor nuisance, including estimated location or source of complaint and any prevailing wind or weather conditions observed.

(3) It is a violation to continuously emit particulate air contaminants above levels allowed in the U.S. EPA National Ambient Air Quality Standards (NAAQS) and/or Colorado Department of Health Air Standards, whichever is more strict, and then at no more than 20 percent opacity.

The city shall investigate all complaints to verify the source of the odor nuisance and take appropriate corrective action.

(k) *Exceptions*. Violation of the odorous air contaminant standard may not be subject to penalty or enforcement action if any of the following circumstances are deemed to exist:

(1) Upset conditions or the breakdown of a device, facility or process that causes an odorous emission if the upset condition or breakdown could not be reasonably anticipated and prevented and if immediate action is taken to eliminate the upset condition and/or repair the equipment. The city shall be verbally notified of the upset condition or breakdown within eight hours of the occurrence and written notification detailing the upset condition or breakdown, and measures taken to correct it, shall be submitted within three working days of the event.

(2) The routine start-up, shutdown, cleaning, maintenance or testing of:

a. Machinery or equipment causing the emission.

b. Machinery or equipment designated to control, reduce or eliminate emissions, where the person undertaking such activities notifies the city in writing 48 hours in advance and the procedure is not conducted during a high-pollution alert. Such notice shall include the date, duration and approximate time that the repair or maintenance activity shall be engaged in. Approval of the activity must be provided in writing by the city, which may add limitations to the proposed actions if deemed necessary to best address the public welfare. After receipt of said notice, the city may, if deemed necessary, issue public service advisories that odor conditions may exist.

(3) Temporary sources or events, such as rodeos, county fairs and stock shows.

(4) Odorous air contaminants existing solely within residences, or solely within commercial and industrial plants, works or shops, or to affect the relations between employers and employees with respect to or arising out of any condition of air pollution, provided that such odors do not penetrate the atmosphere and extend beyond the property boundary so as to become a public nuisance.

(l) *Compliance*. The city may find the person responsible for a violation of the odor standards described in this chapter to be a significant odor generator for which a facility odor management plan is required for submission to and acceptance by the city. Violations of this chapter are subject to the penalties provided in chapter 9 of title 1 of this Code and the procedures attached hereto and specified in section 12-106.

(Code 1994, § 9.52.025; Ord. No. 55, 1995, § 1(part), 10-17-1995; Ord. No. 58, 1997, § 1, 9-16-1997; Ord. No. 81, 2001, § 1, 10-16-2001)

Sec. 12-102. Designation as a significant odor generator.

Designation. Upon investigation, and determination that the exceptions of section 12-101(k) do not apply, the city code enforcement officer may refer a site to the air quality and natural resources commission for consideration of designation as a significant odor generator and cause the following to occur:

(1) The commission shall consider the evidence presented and any related testimony by the source and the public during its public designation hearing. At the close of such hearing, if the commission finds that the evidence and testimony presented proves by a preponderance that a violation of section 12-101 has occurred, the commission may formally designate the source as a significant odor generator, such designation to be provided in writing to the source within two weeks of such hearing and which shall be accompanied by a set of requirements for submission of and consideration of a facility odor management plan.

(2) The source designated by the commission as a significant odor generator shall be required to submit a facility odor management plan in accordance with the commission's findings. A reasonable period of time within which to conduct this evaluation and analysis, and the date of submission of the proposed plan to the city, shall be prescribed by the commission. Upon receipt of the plan by the city, the city manager or his designated code enforcement officer shall:

a. Review the document for adequacy and use of the best available odor control technology.

b. If deemed necessary by the city, the report may be submitted to the county health department or a private consultant for review and recommendation to the city and the commission.

Such plan shall be considered and reviewed by the commission in a manner identical to the designation hearing. If said plan is found inadequate, the commission shall, in writing, provide the source with a listing of areas of deficiency and a time period within which to modify the plan for further consideration by the commission.

(3) At the conclusion of the hearing process on the submitted plan, the commission shall provide a written confirmation and acceptance of the final plan. Acceptance of the facility odor management plan by the commission shall be accompanied by an odor control permit issued to the significant odor generator conditioned upon the payment of fees as set forth in section 12-71.

a. Failure to operate within the parameters of the agreed-upon facility odor management plan may result in suspension of the odor control permit. Continued operation of the industry or source while the odor control permit is suspended may result in a requirement to submit an amended facility odor management plan and/or a summons to municipal court with the application of penalties as set forth in chapter 9 of title 1 of this Code.

b. The odor control permit shall be issued on a graduated basis as follows:

1. The initial issuance shall be for a period of three months.

2. At the end of the three-month period, the permit shall be renewed for a period of six months, provided that no verified violations of the allowable odor intensity have occurred.

3. At the end of the six-month permit, provided that there were no verified violations of the allowable odor intensity, the permit shall be renewed for an additional 12-month period.

4. At the end of the 12-month permit, provided that there were no verified violations of the allowable odor intensity, the permit shall be renewed for an additional 15-month period.

5. For any permit period within which an odor violation is confirmed, at the time of renewal the commission will conduct a hearing to consider any corrections needed to the facility odor management plan prior to renewal of the permit. A new odor control permit may be issued beginning with a three-month permit and a new fee assessed or a permit may be issued for the next issuance period.

6. Upon verification of three or more odor violations at any time during any issuance period, a hearing before the commission will be promptly scheduled and conducted. At the conclusion of said hearing, the commission may consider corrective actions or suspend the permit. Any new permit issued as a result of said hearing will commence with a three-month permit and assessment of the fee for an initial application as provided in subsection 12-71(a).

c. The permittee shall submit an application for renewal at least 30 days prior to the expiration of any odor control permit. An expired odor control permit shall continue in force, and remain fully effective and enforceable, provided that a timely application for renewal has been filed, until the date that a new permit is issued by the commission. If an industry or source which is required to hold an odor control permit operates without a valid odor control permit, the application of penalties as set forth in chapter 9 of title 1 of this Code shall result.

(4) Compliance for a period of three years with the facility odor management plan submitted by the source found to be a significant odor generator shall, at the request of the source, remove such source from the classification as a significant odor generator and relieve such source of the need to hold an odor control permit, but does not relieve such source from continuing compliance with the ordinance codified herein.

(Code 1994, § 9.52.028; Ord. No. 55, 1995, § 1(part), 10-17-1995; Ord. No. 81, 2001, § 1, 10-16-2001)

Sec. 12-103. Voluntary facility odor management plan.

An odor emission source, not designated a significant odor generator, may voluntarily submit a facility odor management plan to the air quality and natural resource commission. Such plan may be reviewed by the city in

accordance with the procedures set forth in subsections 12-102(3) and (4). If a source voluntarily submitting a facility odor management plan under this provision does not wish to modify its proposed plan in accordance with any list of deficiencies identified by the commission, the source may elect, in its sole discretion, to withdraw its request for commission review and approval of the voluntary plan. An odor control permit issued as a result of a voluntary odor management plan will be subject to the renewal standards as found in subsection 12-102(4). The commission may waive the review fees as provided in subsection 12-71(a) for a voluntary plan.

(Code 1994, § 9.52.029; Ord. No. 81, 2001, § 1, 10-16-2001)

Sec. 12-104. High-pollution prohibition; solid-fuel-fired heating device.

(a) ~~After October 1, 1987,~~ No person may operate a solid-fuel-fired heating device, except a wood stove or insert certified by the state department of health or a noncertified wood stove or insert fitted with an approved retrofit antipollution kit, during a high-pollution day unless an exemption has been granted pursuant to subsection (c)(1) or (2) of this section. It shall be the duty of all persons owning or operating a solid-fuel-fired device to be aware of any declaration of a high-pollution day by the county health department.

(b) At the time of the declaration of a high-pollution day, the city manager shall allow five hours for the burn-down of existing fires in solid-fuel-burning devices prior to the initiation of enforcement.

(c) Exemptions. The following conditions are allowed exemptions to subsection (a) of this section:

(1) Exemption for sole heat source:

a. A person who relies on a solid-fuel-fired heating device installed prior to October 1, 1987, as his sole source of heat, may apply to the city manager or his designee for an exemption from subsection (a) of this section.

b. A person applying for an exemption must sign a sworn statement that he relies on a solid-fuel-fired heating device as his sole source of heat.

c. An exemption obtained under this section shall be effective for 12 months from the date it is granted.

(2) Exemption for economic need:

a. A person who relies on a solid-fuel-fired heating device installed prior to October 1, 1987, because of economic need, may apply to the city manager or his designee for exemption from subsection (a) of this section.

b. A person applying for this exemption must demonstrate economic need by certifying eligibility for energy assistance according to economic guidelines established by the United States Office of Management and Budget under the Low-Income Energy Assistance Program (L.E.A.P.), as administered by the county.

c. An exemption obtained under this section shall be effective for 12 months from the date it is granted.

(3) Exemption for cooking purposes. Appliances designed and used primarily for cooking purposes shall be exempt from the provisions of subsections (a), (b) and (c) of this section.

(4) Exemption for solid-fuel boilers that require state emission permits. Solid-fuel boilers that require state emission permits are exempt from the provisions of this chapter.

(d) Wood stove installation and reinstallation. No person shall install a new wood stove, whether freestanding or insert, unless it is certified by the state department of health. No person shall reinstall a noncertified wood stove, whether freestanding or insert, unless an approved retrofit antipollution kit is available and installed prior to the reinstallation of the wood stove.

(e) Violation; penalty. Any person who violates any provision of this section or performs any unlawful acts, as defined in this chapter, any person who fails to perform any act required by this section or any person who fails or refuses to comply with any lawful order given pursuant to this section, ~~is guilty of a misdemeanor, and~~ upon first ~~offense~~ violation, shall be issued a warning; upon second ~~offense~~ violation, shall be issued a summons and upon

conviction shall pay a fine of $25.00 or successfully complete a class on proper use of solid-fuel-fired burning devices in lieu of payment of the $25.00 fine; and upon third and succeeding ~~offenses~~ violations shall be issued a summons and upon conviction shall be punished as provided in chapter 9 of title 1 of this Code. Each day of any such violation is a separate offense and punishable accordingly.

(f) Three-year review. The building inspection advisory and appeals board shall reevaluate the program every three years during the normal Code review process.

(g) Public awareness program. The city manager or his designee shall initiate a public awareness program to encourage the proper use and operation of solid-fuel-burning devices and encourage the public in those practices which minimize the potential for air pollution.

(Code 1994, § 9.52.030; Ord. No. 46, 1987, § 1(part), 9-15-1987; Ord. No. 27, 1989, § 2(part), 6-27-1989; Ord. No. 55, 1995, § 1(part), 10-17-1995; Ord. No. 81, 2001, § 1, 10-16-2001)

Sec. 12-105. Animal feeding operations regulated.

The following standards shall be applied to all land uses which function as animal feeding operations as defined in this chapter:

(1) *Surface water protection.*

a. *General performance requirements.*

1. Animal feeding operations are required to be operated as no-discharge facilities. Compliance with the no-discharge provision can only be achieved by installation and operation of adequate manure and process wastewater collection, storage and land application facilities.

2. Animal feeding operations shall control all manure and process wastewater including flows from the animal areas and all other flows from an applicable storm event. Control of manure and process wastewater from animal feeding operations may be accomplished either through use of retention basins, terraces or other runoff control methods. In addition, diversions of uncontaminated surface drainage prior to contact with the animal feeding operation or manure storage areas may be required.

b. *Design criteria*. An operator of an animal feeding operation shall not discharge manure, process wastewater or stormwater runoff from the facility to state waters except as the result of storms equal to or in excess of the amount resulting from a 25-year, 24-hour event. The 25-year, 24-hour event designation criterion applies to all stormwater diversion structures (e.g., dikes, berms, ditches) as well as manure and process wastewater retention and control structures. Any discharge to surface waters shall be as the result of excess flow or overflow beyond the properly designed and constructed retention capability or hydraulic capacity of the manure or process wastewater control structures. A discharge shall not result from dewatering or lowering of the process wastewater level or solids storage level below the design retention capability of the control structures. Runoff volumes shall be calculated in accordance with city standards.

c. *Operation and maintenance requirements.*

1. Manure and process wastewater removal. Accumulations of manure and process wastewater shall be removed from the control retention structures as necessary to prevent overflow or discharge from the structures. Manure and process wastewater stored in earthen storage structures (lagoons or earthen storage basins) shall be removed from the structures as necessary to maintain a minimum of two feet of freeboard in the structure, unless a greater level of freeboard is required to maintain the structural integrity of the structure or to prevent overflow.

2. To ensure that adequate capacity exists in the control structures to retain all manure and process wastewater produced during periods when land application or disposal operations cannot be conducted (due to inclement weather conditions, lack of available land disposal areas or other factors), manure and process wastewater shall be removed from the control structures as necessary prior to these periods.

3. Adequate equipment shall be available on-site or provided for in a written agreement for the removal of accumulation of manure and process wastewater as required for compliance with the provisions of this section.

4. Process wastewater retention structures shall be equipped with systems capable of dewatering the retention structures for off-site disposal.

5. Off-site drainage diversion. When animal confinement areas and manure stockpiles must be isolated from outside surface drainage by ditches, pipes, dikes, berms, terraces or other such structures, these diversion structures shall be maintained to carry peak flows expected at times when the applicable design storm event occurs. All manure stockpile areas shall be constructed and maintained so as to retain all rainfall which comes in contact with the stockpiles.

(2) *Groundwater protection*. All animal feeding operation wastewater retention structures or retention structures which collect stormwater runoff which comes into contact with manure shall be constructed of compacted or in-situ earthen materials or other very low permeability materials and shall be maintained so as not to exceed a seepage rate of 1/32" per day (9×10^{-7} cm./sec). The operator shall have available suitable evidence that a completed lining meeting the requirements of the subsection is constructed and functional.

a. Compacted or in-situ earthen materials shall consist of suitable soils which meet the seepage rate of this section and shall have a minimum compacted thickness of 12 inches.

b. Very low permeability materials include flexible membrane linings, asphalt-sealed fabric liner and bentonite sealants. Installation of very low permeability materials shall be in accordance with the manufacturer's installation specifications.

(3) *Land application of wastewater or manure*. Except as provided at section 12-101(h), the application of wastewater or manure from animal feeding operations to land within the city limits is strictly prohibited.

(4) *Air quality control*. All animal feeding operations shall be operated and maintained in a manner which controls the generation of odors off-site and which reduces the potential for odor generation.

a. Manure shall be removed from the site as often as necessary to control odors but in no event less than on a quarterly basis.

b. Dust abatement measures shall be taken which prevent the lofting of particulate matter from animal feeding operations. The dust abatement measures themselves shall not generate odors or create airborne particulates.

c. No animal feeding operation shall cause or allow the emission of odorous air contaminants which result in detectable odors after the odorous air has been diluted with seven or more volumes of odor-free air.

(5) *Best management practices.*

a. The following best management practices (BMPs) shall be utilized by animal feeding operations as appropriate based upon existing physical conditions and site constraints. The term best management practices, for the purposes of this regulation, means activities, procedures or practices necessary for the reduction of impacts from animal feeding operations in accordance with the definition of BACT in this chapter.

b. The following practices to decrease runoff volume from animal feeding operations are BMPs within the meaning of this regulation:

1. Operators of animal feeding operations shall divert runoff from uncontaminated areas away from animal containment areas and manure and process wastewater control facilities to the maximum extent practicable through:

(i) Construction of ditches, terraces or other waterways.

(ii) Installation of gutters, downspouts and buried conduits to divert roof drainage.

(iii) Construction of roofed areas over animal confinement areas everywhere it is practicable.

2. Practices to decrease wastewater discharges to watercourses:

(i) Operators shall not deposit such materials which might pollute waters of the state in such locations that stormwater runoff or normally expected high stream flow will carry such materials into the waters of the state.

(ii) Process wastewater retention structures shall not be located within a mapped one-hundred-year floodplain as designated and approved by the state water conservation board (CWCB) unless proper floodproofing measures (structures) are designed, permitted and constructed.

3. Practices to minimize solid manure transport to watercourses:

(i) Manure stockpiles shall be located away from watercourses and above the one-hundred-year floodplain as designated and approved by CWCB unless adequate floodproofing structures are provided.

(ii) Operators of animal feeding operations shall provide adequate manure storage capacity based upon manure and wastewater production.

(iii) Settleable solids shall be removed by the use of solids-settling basins, terraces, diversions or other solid-removal methods.

(iv) Removal of settleable manure and process wastewater solids shall be considered adequate when the velocity of waste flows has been reduced to less than one-half foot per second for a minimum of five minutes. Sufficient capacity shall be provided in the solids-settling facilities to store settled solids between periods of manure and process wastewater disposal.

(v) Collect and remove manure and waste frequently.

4. Practices to protect groundwater:

(i) Operators of animal feeding operations shall locate manure and process wastewater management facilities hydrologically down gradient and a minimum horizontal distance of 150 feet from all water supply wells.

(ii) When applying manure and process wastewater to land, operators of animal feeding operations shall utilize a buffer area around water wells.

(6) *Manure and process wastewater management plans*. All new, reactivated, reconstructed or expanded animal feeding operations and existing animal feeding operations which have been determined to be in significant noncompliance with these regulations shall submit a written manure and process wastewater management plan to the city. The city will provide written comments on the adequacy of the plan within 45 days of receipt of such submittal. This plan shall include details demonstrating the facility's adequacy to comply with these regulations. The plan, at a minimum, shall include the following:

a. Legal owner.

b. Local contact.

c. Legal description of the site.

d. Surface area of the site along with a drainage schematic.

e. The designated animal unit capacity.

f. Stormwater and wastewater conveyance facilities.

g. Manure and process wastewater containment and treatment facilities.

h. Information on the manure and process wastewater disposal sites.

The city may require additional information characterizing the manure and process wastewater if deemed

necessary. Process wastewater retention structures or manure stockpiles shall not be located within a mapped 100-year floodplain as designated and approved by the state water conservation board unless proper floodproofing measures (structures) are designed, permitted and constructed. Facility designs as required under this section shall be prepared by a registered professional engineer, the USDA Soil Conservation Service or qualified agricultural extension service agent. This plan may be supplied in conjunction with a facility odor management plan if such is required by other sections of this chapter but is not intended to replace such plan unless specifically authorized in writing by the city.

(Code 1994, § 9.52.031; Ord. No. 55, 1995, § 1(part), 10-17-1995; Ord. No. 81, 2001, § 1, 10-16-2001)

Sec. 12-106. Enforcement.

(a) The odor pollution control program established by this chapter shall be implemented, administered and enforced by the community development department or other city departments and/or divisions as determined by the city manager.

(b) The provisions of this chapter, which prohibits the causing or continuing of odor pollution, shall be enforced only upon the finding that a source is a significant odor generator as defined in section 12-69. An investigation of an odor alert condition as specified in subsection 12-101(j)(1)(a) shall occur promptly.

(c) In addition, to further implement and enforce this chapter, the city code enforcement officer may:

(1) Conduct research, monitoring and other studies related to odor pollution.

(2) Review public and private projects, including those subject to mandatory review or approval by other departments, for compliance with this chapter, if these projects are likely to cause odor pollution in violation of this chapter.

(3) Upon presentation of proper credentials, and after reasonable notice, enter, inspect and test any property or place regarding which complaints have been filed, or which has been designated as a significant odor generator, and inspect any reports, records or equipment deemed necessary at any time. An administrative search warrant may be obtained as provided in this Code upon failure of the owner or his authorized representative to permit such inspection upon request.

(d) If an odor alert condition is verified by the city code enforcement officer, that officer shall then:

(1) Determine the location of the complaints and/or observation which result in the establishment of the odor alert condition.

(2) Prepare a summary of the odor descriptions contained in the establishment of the odor alert condition.

(3) Determine the prevailing weather condition at the time of the alert, including, but not limited to, wind direction, temperature, wind velocity, humidity and general weather conditions.

(4) Visit the general area from which the complaints were generated in order to characterize the nature of the complaint.

(e) Following such action, the city code enforcement officer shall attempt to make a determination as to the industry or source of origin of the odor alert. Such determination may be made utilizing a triangulation procedure as outlined in state guidelines for certification or another recognized method.

(f) If the determination is made as to the origin of the odor alert, and such source has not been designated as a significant odor generator, the code enforcement officer shall notify the owner, operator or manager of the facility or other responsible party that the facility has been designated as the point source or origin of the odor alert. Such notification shall contain the following:

(1) The date, times and locations of the occurrence of the odor nuisances.

(2) The potential for the industry or source to be designated as a significant odor generator, and the potential for enforcement action.

(g) If the determination is made as to the origin of the odor alert, and such source is a significant odor generator, the city code enforcement officer shall:

(1) Notify the owner, operator or manager of the facility or other responsible party that the facility has been

designated as the point source or origin of the odor alert and is in potential violation of this chapter.

(2) Inspect the facility's operating log books pertaining to odor control, the instrumentation monitoring the odor control and process equipment, any processes and equipment that may relate to odor generation and control, and any other equipment and processes that are determined necessary by the city code enforcement officer.

(3) Make a determination as to the facility's compliance with this chapter and conformance with the parameters of its facility odor management plan.

(4) If the city code enforcement officer determines that a violation of this chapter exists or that an industry or facility is not operating within the parameters of its facility odor management plan, he shall notify the facility's owner, operator, manager or other responsible party of the noncompliance. Good faith negotiations shall then be entered into between the responsible party and the city code enforcement officer regarding the necessary corrective action and the time frame in which such action shall be taken. In the event the facility fails to comply with the notice and the action agreed upon, or if no agreement is reached, the city code enforcement officer may commence legal action as prescribed in this chapter.

(h) Suspension and revocation of permit.

(1) Any permit issued pursuant to this chapter may be revoked for violations of this chapter. No revocation shall be issued except upon notice delivered to the permittee by mailing the notice in regular mail addressed to the permittee at the address listed on the application, a minimum of ten days prior to the date set for the hearing before the commission. Such notice shall inform the permittee of the time, date and place of the hearing, the purpose of the hearing, and shall set out the reasons therefor. However, if the violation of this chapter is deemed to be an immediate hazard by the enforcement official, and such report is submitted to the city clerk in writing, the city clerk shall be authorized to temporarily suspend the license until notice can be given and hearing held.

(2) If after such a hearing, the commission makes a finding based on a preponderance of the evidence that a violation of this chapter did in fact occur as alleged, the commission may continue suspension of or revoke the permit; the determination of whether to revoke such license shall be at the discretion of the commission and shall be dependent upon the circumstances surrounding the violation and its severity.

(3) The decision of continued suspension or revocation made by the commission may be appealed to the city council. In order to appeal such decision, written notice of appeal must be filed with the city clerk within five days after receipt of the decision. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the decision of continued suspension or revocation of the commission.

(4) The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled at the next regular city council meeting, if such notice is received by 12:00 p.m. on the Wednesday before the next regular council meeting. If notice is not received by the above-designated time, the hearing will be scheduled for the next following council meeting, if notice is received within five days after receipt of the decision by the commission. The hearing may be continued for good cause. The hearing shall be confined to the record made before the commission and the arguments of the parties or their representatives, but no additional evidence shall be taken. After such hearing, the city council may affirm or reverse the order of the commission. Such determination shall be contained in a written decision and shall be filed with the city clerk within three days after the hearing, or any continued session thereof.

(Code 1994, § 9.52.038; Ord. No. 55, 1995, § 1(part), 10-17-1995; Ord. No. 81, 2001, § 1, 10-16-2001)

Secs. 12-107--12-125. Reserved.

ARTICLE III. MISCELLANEOUS AIR POLLUTION

Sec. 12-126. Fugitive dust; abatement.

(a) *Definition*. For the purpose of each and every provision of this chapter, the following definition shall apply. The term "fugitive dust" means dirt which becomes airborne and relocates on a property other than on the

one from which it originated.

(b) *Compliance*. All new development projects must file and comply with an erosion control plan as prescribed in chapter 3 of this title.

(c) *Violation*. No owner, tenant or agent of any lot, block or parcel of ground in the city shall permit dust or dirt from their property to blow upon another property or right-of-way.

(d) *Notice abatement*. After notice as described further in section 12-10 to the owner, tenant or agent of the subject property, a 24-hour time period shall be given to resolve the fugitive dust complaint pursuant to subsection (b) of this section. If after expiration of 24 hours the property is not in compliance, the ~~administrative authority or~~ code ~~enforcement~~ compliance inspector may have an employee of the city, or a private individual or firm under contract, perform the necessary measures to control the fugitive dust. If, however, the ~~administrative authority~~ city manager or designee deems the property to be an immediate traffic, health, or safety hazard, ~~the authority may authorize that~~ immediate action may be taken.

(Code 1994, § 9.16.111; Ord. No. 19, 1988, § 1(part), 5-17-1988; Ord. No. 25, 1999, § 2(part), 6-15-1999)

Secs. 12-127--12-150. Reserved.

ARTICLE IV. BANNING SMOKING IN PUBLIC PLACES AND COMMON AREAS OF ASSEMBLY

Sec. 12-151. Intent.

Medical science has determined that smoking and secondhand smoke are leading health problems throughout the United States. Secondhand smoke has been identified as a Class A carcinogen, and there is no safe level of exposure. It is the intent of this chapter to protect the health, safety, comfort and welfare of city citizens from the harmful effects of secondhand smoke by banning smoking in all places where people are likely to gather in close proximity to one another and to enhance the existing health protections provided under the law.

(Code 1994, § 9.44.010; Ord. No. 66, 2003, § 2, 11-4-2003; Ord. No. 1, 2019, att., § 9.44.010, 1-15-2019)

Sec. 12-152. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Common areas means lobbies, hallways, elevators, restrooms or other enclosed indoor areas where people are likely to gather in close proximity. The term "common areas" includes the entrance/exit.

Electronic smoking device means an electric or battery-operated device that, when activated, emits a vapor, aerosol, or smoke, or can be used to deliver nicotine or any other substance to the person using the device. The term "electronic smoking device" shall include, without limitation, inhalant delivery systems such as electronic cigarettes, e-cigars, e-cigarillos, e-pipes, vape pens, hookahs, or any similar product by any other name or descriptor. The term "electronic smoking device" includes any component, part, or accessory of the device whether or not sold separately.

Entrance/exit means the passageway by which people may enter or exit a building or facility, typically consisting of a door or doorway. The term "entrance/exit" includes the stoop, steps, or ramp leading from the sidewalk or pavement to a door or doorway.

Lighted means to illuminate, ignite, burn or emit light by electricity, battery or fire.

Public places means areas to which the general public is invited or permitted, specifically, restaurants, taverns, banks, theaters, waiting rooms, meeting rooms, reception areas, businesses, libraries, educational facilities, health care facilities, transportation facilities, and recreational facilities such as bowling alleys, bingo halls, and facilities providing music or sporting events. The term "public places" shall also mean public ball fields, pools or splash parks, arenas, skate parks, park pavilions/shelters, outdoor sports courts, and playgrounds.

Smoking means and includes, but is not limited to:

(1) The carrying or placing of a lighted smoking instrument or an electronic smoking device in one's mouth for the purpose of inhaling or exhaling smoke or vapor or blowing smoke rings;

(2) The placing of a lighted smoking instrument or an electronic smoking device in an ashtray or other receptacle, and allowing smoke or vapor to diffuse in the air;

(3) The possession, carrying or placing of a lighted smoking instrument or an electronic smoking device in one's hands or any appendage or device and allowing smoke or vapor to diffuse in the air; or

(4) The inhaling or exhaling of smoke or vapor from a lighted smoking instrument or electronic smoking device.

Smoking instrument means an instrument of any kind which can be used to deliver substances, including but not limited to, nicotine, tobacco, or marijuana, to the person using such instrument. The term "smoking instrument" includes, without limitation, cigarettes, cigars, cigarillos, pipes, and hookahs. The term "smoking instrument" shall specifically include electronic smoking devices.

(Code 1994, § 9.44.020; Ord. No. 1, 2015, § 1(exh. A), 1-20-2015; Ord. No. 1, 2019, att., § 9.44.020, 1-15-2019)

Sec. 12-153. Ban.

Smoking is prohibited in public places or common areas, as defined by this chapter, and within 25 feet in any direction of a public place or common area. Smoking is also prohibited anywhere designated by the city by posting a sign using the words "No Smoking" or the international "no smoking" symbol.

(Code 1994, § 9.44.030; Ord. No. 66, 2003, § 2, 11-4-2003; Ord. No. 1, att., § 9.44.030, 1-15-2019)

Sec. 12-154. Signs prohibiting smoking.

To advise people that smoking is banned in public places and common areas, the city, owner, lessee, manager or person in charge of a public place or common area may post a sign using the words "No Smoking" or the international "no smoking" symbol. The signs shall use letters no less than one inch high or symbols no less than three inches high. Such signs shall include the notice "No smoking within 25 feet of this area" or similar. Notwithstanding this provision, the absence of such signs shall not be a defense to a charge of a violation of this chapter.

(Code 1994, § 9.44.040; Ord. No. 66, 2003, § 2, 11-4-2003; Ord. No. 1, att., § 9.44.040, 1-15-2019)

Sec. 12-155. Responsibilities of proprietors.

No owner, lessee, manager or person in charge of a public place or common area shall fail to inform people that smoking is prohibited in the public place or common area.

(Code 1994, § 9.44.050; Ord. No. 66, 2003, § 2, 11-4-2003; Ord. No. 1, att., § 9.44.050, 1-15-2019)

~~**Sec. 12-156. Exceptions. (reserved)**~~

~~(Ord. No. 1, att., § 9.44.055, 1-15-2019)~~

Sec. 12-156. Enforcement.

(a) The following shall be responsible for enforcing this chapter: city police officers, other law enforcement agents, city code compliance inspectors, or the city manager 's designee.

(b) Violations of this chapter shall be deemed misdemeanor infractions punishable pursuant to chapter 9 of title 1 of this Code.

(c) Each violation shall constitute a separate infraction.

(Code 1994, § 9.44.060; Ord. No. 66, 2003, § 2, 11-4-2003; Ord. No. 1, att., § 9.44.060, 1-15-2019)

~~**Sec. 12-158. Exceptions. (reserved)**~~

~~(Ord. No. 1, att., § 9.44.070, 1-15-2019)~~

Sec. 12-157. Right of action.

Except as otherwise provided, enforcement of this chapter is within the sole discretion of the city. Nothing in this chapter shall create a right of action in any person against the city or its agents to compel public enforcement of this chapter against private parties.

(Ord. No. 1, att., § 9.44.080, 1-15-2019)

Sec. 12-158. ~~Severability~~ Intended as supplement.

It is the intent of this chapter to supplement, not duplicate or contradict, applicable state and federal law and it shall be construed consistently with that intention.

(Ord. No. 1, att., § 9.44.090, 1-15-2019)

Secs. 12-161--12-188. Reserved.

CHAPTER 3. GRADING AND SOIL EROSION CONTROL

Sec. 12-189. Legislative findings.

The city council hereby finds that excessive quantities of soil are eroding from certain areas that are undergoing development for nonagricultural uses such as housing and commercial developments, industrial areas, recreational facilities and roads. This erosion makes necessary costly repairs to gullies, washed out fills, roads and embankments. The resulting sediment clogs streets, storm sewers and road ditches, leaves deposits of silt in streams, lakes and reservoirs and is considered a significant water pollutant.

(Code 1994, § 9.18.010; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.010, 7-2-2019)

Sec. 12-190. Purpose.

(a) The purpose of this chapter is to prevent soil erosion and sedimentation from leaving areas that occur from nonagricultural development and construction within the city, by requiring proper provisions for water disposal and the protection of soil surfaces during and after construction, in order to promote the safety, public health, convenience and general welfare of the community.

(b) Any person who undertakes, develops or is responsible for an undertaking or development that involves land disturbing activity described in subsection 12-691(a) is responsible to see that soil erosion and sedimentation, as well as resulting changed water flow characteristics, are controlled to avoid damage to property and pollution of receiving waters. Nothing in this chapter shall be taken or construed as lessening or modifying the ultimate responsibility of such persons. The requirements of this chapter do not imply the assumption of responsibility on the part of the city. The standards, criteria and requirements of this chapter are to be seen as minimum standards which are not necessarily adequate to meet the highly variable conditions which must be covered by effective control measures. Compliance with the requirements of this chapter may not, therefore, of itself discharge a person's responsibility to provide effective control measures.

(Code 1994, § 9.18.020; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.020, 7-2-2019)

Sec. 12-191. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Best management practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of state waters. Best management practices (BMPs) also include treatment requirements, operating procedures and practices to control construction site runoff.

~~CSESCP (construction site erosion and sediment control plan) means a plan submitted to the city that addresses erosion, sediment and waste control, and water quality issues pertaining to the site containing such information as site description, location and description of appropriate best management practices, as that term is defined in Chapter 14.15, maintenance procedures and all other matters necessary or appropriate to comply with the provisions of this chapter and the city of Greeley Storm Drainage Design Criteria and Construction Specifications Manual.~~

City inspector means the person authorized by the city engineer, or the city engineer's designee, to inspect a site for the purpose of determining compliance with the provisions of this chapter.

Common plan of development or sale means contiguous (within one-quarter mile of each other) multiple, separate and distinct construction activities that may be taking place at different times on different schedules, but remain related because they share the same builder, contractor, equipment or storage areas.

Construction activities means clearing, grading, excavation, installing or improving roads, creating staging areas, stockpiling fill materials, borrow areas and compacting associated with stabilization of structures, but does not include routine maintenance performed by public agencies or their agents to maintain original line grade, hydraulic capacity or the original purpose of a facility.

Construction site erosion and sediment control plan or *CSESCP* means a plan submitted to the city that addresses erosion, sediment and waste control and water quality issues pertaining to the site. This plan shall contain such information as site description, location and description of appropriate temporary and/or permanent BMPs, maintenance procedures and all other matters necessary or appropriate to comply with the provisions of this chapter and the City of Greeley Storm Drainage Criteria Manual, Volume II.

Developer means a person who undertakes land development activities.

Development means any activity, excavation or fill, alteration, subdivision, change in land use or practice, undertaken by private or public entities, that may affect the discharge of stormwater runoff. The term "development" does not include the maintenance of stormwater runoff facilities.

Disturbed area means that area of the land's surface disturbed by any work activity upon the property by means, including, but not limited to, grading; excavating; stockpiling soil, fill or other materials; clearing; vegetation removal; removal or deposit of any rock, soil or other materials; or other activities which expose soil. The term "disturbed area" does not include the tillage of land that is zoned agricultural.

Final stabilization means the condition reached when all land disturbing activities at a development site have been completed, and a uniform vegetative cover has been established with an individual plant density of at least 70 percent of pre-disturbance levels or equivalent permanent physical erosion reduction methods have been employed.

Land-disturbing activity means an activity that results in a change in the existing surface, including, but not limited to, construction activities, but does not include tilling agricultural land.

Owner means any individual, partnership, limited liability company, corporation or other legal entity that has any legal title or equitable ownership interest in the real property.

Permanent BMPs means those permanent stormwater quality BMPs that are properly installed and regularly maintained in order to treat stormwater runoff and ensure long-term water quality enhancements.

Person means anyone that has legal or contractual rights and obligations with the construction activities, including, but not limited to, the developer, land owner, contractor or homeowners.

Plan means a document, approved at the site design phase, that outlines the measures and practices used to control stormwater runoff at a site.

State waters means as the term is defined by the Colorado Water Quality Control Act (CWQCA), and includes any and all surface and subsurface waters which are contained in or flow in or through the state, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems and all water withdrawn for use until use and treatment have been completed.

Stop-work order means an order issued by the city which requires that all construction activity on a development, or part thereof, be stopped.

Stormwater means stormwater runoff, snow melt runoff and surface water runoff and drainage.

Stormwater discharge permit means a permit issued to a developer or other person that will be disturbing one acre or more of soil or less than one acre when part of a larger common plan of development, by the state department of public health and environment, water quality control division, to discharge stormwater runoff from construction site activities.

Stormwater drainage system means any manmade improvement or conveyance intended for stormwater runoff from real property, including, but not limited to, open channels, streets, gutters, catch basins, underground pipes, ditches, swales, detention ponds, retention ponds and lakes.

SWMP (stormwater management plan) means a plan for receiving, handling and transporting stormwater within the city's stormwater drainage system.

(Code 1994, § 9.18.030; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.030, 7-2-2019)

Sec. 12-192. Compliance with chapter required for site plan or plat approval.

No applicable site plan, plot plan, plat or replat will be approved unless it includes soil erosion and sediment control measures consistent with the requirements of this chapter and related land development regulations.

(1) Control measures must be implemented for the development area and associated construction activities for the time starting with initial land disturbing activity until final stabilization. Adequate control measures must be selected, designed, installed, implemented and maintained to provide control of all potential discharges into the city's stormwater drainage system from construction activities.

(2) The site plan must locate and identify all structural and nonstructural control measures for the applicable construction activities, including installation and implementation specifications for all structural controls or a reference to the document that does contain those specifications. The site plan must also include a narrative description of nonstructural control measures.

(Code 1994, § 9.18.040; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.040, 7-2-2019)

Sec. 12-193. Adoption of manuals by reference.

As criteria for stormwater drainage design and construction activities, the most recent edition and revisions of the city's Storm Drainage Design Criteria and Construction Specifications Manual and the Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual are both hereby adopted by reference as if fully set forth herein. The director of public works shall apply the criteria contained in these manuals in the administration of this chapter, with the Storm Drainage Design Criteria and Construction Specifications Manual taking first priority.

(Code 1994, § 9.18.050; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.050, 7-2-2019)

Sec. 12-194. City permits and fees.

(a) *Grading permit*. A city grading permit is required for any development involving land disturbing activity that is:

(1) Equal to or greater than one acre;

(2) Less than one acre if the construction activities are part of a common plan of development or sale within the city; or

(3) An area of any size that, due to the nature of its topography or location, provides a potential for negative impact on the city's stormwater facilities, streets or receiving waters, and will have a detrimental effect upon the public welfare or upon the watershed.

The director of public works shall identify such development sites and provide written notice to the property owner and/or developer with instructions to obtain a grading permit and prepare a CSESCP and SWMP prior to beginning or continuing grading activities.

(b) *Permit requirement*. Unless exempted by this chapter, no person shall conduct construction activities or undertake any land disturbing activity within the city without a city grading permit. Issuance of a grading permit by the city does not exempt parties from obtaining other applicable permits required by the city, state (in particular, a "Stormwater Discharges Associated with Construction Activities Permit from Colorado Department of Public Health and Environment: Water Quality Division") or federal government.

(c) *Permit application*. A separate application is required for each grading permit. Prior to grading permit issuance, a CSESCP and SWMP must be submitted to, and reviewed and approved by, the director of public works.

(d) *Fees*. Every application for a permit must be accompanied by the appropriate fee as set in accordance with section 1-38.

(Code 1994, § 9.18.060; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 26, 2011, § 1, 9-6-2011; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.060, 7-2-2019)

Sec. 12-195. Time.

A permit holder shall comply with all of the provisions of this chapter and all of the terms and conditions of the grading permit, and shall complete all of the work contemplated under the grading permit within the time limit specified in the grading permit or within one year after the date of issuance of the grading permit, whichever is earlier. If the permit holder is unable to complete the work, within the specified time, at least ten days prior to the expiration of the permit, a written request to the director of public works for an extension of time must be submitted setting forth the reasons for the requested extension. In the event such an extension is warranted, the director of public works may grant additional time for the completion of the work up to 180 days, but no such extension shall constitute a release from any requirements of this chapter.

(Code 1994, § 9.18.070; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.070, 7-2-2019)

Sec. 12-196. Failure to complete the work.

In the event the permit holder fails to complete the work or fails to comply with all the requirements, conditions and terms of a permit, the director of public works may order completion of such work as is necessary to eliminate any danger to persons or property, to leave the site in a safe condition, and for completion of all necessary soil erosion control measures.

(Code 1994, § 9.18.080; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.080, 7-2-2019)

Sec. 12-197. Denial of permit.

Grading permits will not be issued where:

(1) The proposed work would cause foreseeable hazards to the public safety and welfare;

(2) The work would cause damage to any public or private property, interfere with any existing drainage course and cause damage to an adjacent property, result in the deposit of debris or sediment on any public way or into any waterway, or create an unreasonable hazard to persons or property;

(3) The area for which grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work will eliminate or sufficiently reduce earth settlement, slope instability or any other hazard to persons or property; or

(4) The area for which grading is proposed lies within the designated floodplain of any stream or watercourse unless a hydrologic report, prepared by a professional engineer, is submitted to certify that the proposed grading will have no detrimental influence on the public welfare or upon the watershed and is consistent with floodplain ordinances and Federal Emergency Management Agency regulations.

(Code 1994, § 9.18.090; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.090, 7-2-2019)

Sec. 12-198. Modifications of approved plans.

Major proposed modifications of an approved CSESCP must be submitted with all supporting materials to the director of public works. No work in connection with major proposed modifications shall be permitted without prior approval of the director of public works. All changes in hydrology constitute major proposed modifications. In addition, field conditions may require ongoing modifications to site soil and erosion control plans.

(Code 1994, § 9.18.100; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.100, 7-2-2019)

Sec. 12-199. Responsibility of permit holder.

During construction activities and until final stabilization, the permit holder shall be responsible for:

(1) The prevention of damage to any public utilities or services within the area in which land disturbing activity is taking place and along any routes of travel of equipment.

(2) The prevention of damage to adjacent property.

(3) Carrying out the proposed work in accordance with the approved plans and in compliance with all the requirements of any permits and this chapter.

(4) The prompt removal of all soil, debris and materials deposited on public streets, highways, sidewalks or other public thoroughfares or any other nonauthorized off-site location, including transit routes to and from the construction site, or elsewhere, where such deposits may constitute a public nuisance, trespass or hazard.

(5) Implementing and maintaining control measures for sediment and erosion within the permitted area and associated land disturbing activity.

(Code 1994, § 9.18.110; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.110, 7-2-2019)

Sec. 12-200. General requirements.

The following requirements must be met for land disturbing activity authorized pursuant to a grading permit:

(1) All temporary erosion control facilities and all permanent facilities intended to control erosion shall be installed before any land disturbing activity takes place, if practicable.

(2) Any land disturbing activity shall be conducted in such a manner so as to effectively reduce accelerated soil erosion and resulting sedimentation and should not exceed the erosion expected to occur for the area if undeveloped.

(3) All persons engaged in land disturbing activity shall design, implement and maintain soil erosion and sedimentation control measures, in conformance with the erosion control technical standards adopted by the city contained in the Storm Drainage Design Criteria and Construction Specifications Manual and the Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual.

(4) All land disturbing activity shall be designed and completed in such a manner so that the change in existing land surface is limited to the minimum period of time.

(5) Sediment caused by accelerated soil erosion shall be removed, to the maximum extent practicable, from runoff water before it leaves the area of the land disturbing activity.

(6) Any temporary or permanent facility designed and constructed for the conveyance of water around, through or from the area of land disturbing activity shall be designed to limit the water flow to a nonerosive velocity.

(7) Temporary soil erosion control measures shall be removed, and disturbed areas graded and stabilized with permanent soil erosion control measures pursuant to standards and specifications prescribed in accordance with the provisions of the SWMP, applicable regulations and the grading permit.

(8) Permanent soil erosion control measures for all slopes, channels, ditches or any disturbed area shall be completed within 14 calendar days, depending on climate conditions, after final stabilization has been completed. When it is not possible to permanently stabilize an area after land disturbing activity has ceased, adequate temporary soil erosion control measures in compliance with the Storm Drainage Design Criteria and Construction Specifications Manual and the Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual shall be implemented within 14 calendar days, depending on climate conditions. All temporary soil erosion control measures shall be maintained until permanent soil erosion measures are implemented.

(Code 1994, § 9.18.120; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.120, 7-2-2019)

Sec. 12-201. Maintenance requirements.

Persons carrying out soil erosion and sediment control measures required by this chapter, and all subsequent owners of property upon which such measures have been taken, shall maintain all permanent erosion control measures such as retaining walls, structures, plantings and other protective devices. Should the permanent erosion control facilities fail to be maintained, the city reserves the right and authority to enter the affected property, provide

needed maintenance and be reimbursed for the cost of work performed.

(Code 1994, § 9.18.130; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.130, 7-2-2019)

Sec. 12-202. Grading permit/soil and erosion control plan requirements.

(a) All CSESCPs and specifications, including modifications of previously approved plans, shall include design standards for erosion, sediment and waste control in accordance with the Storm Drainage Design Criteria and Construction Specifications Manual and the Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual. Soil and erosion control plans are required for development described in section 12-194(a). Development having construction activity including clearing, grading and excavation activities that result in the disturbance of land less than one acre if part of a larger common plan of development.

(b) The director of public works shall identify such sites and provide written notice to the property owner and/or developer with instructions to obtain a grading permit and prepare a CSESCP prior to beginning or continuing grading activities.

(Code 1994, § 9.18.140; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 43, 2003, § 1, 6-17-2003; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.140, 7-2-2019)

Sec. 12-203. Exemptions.

No grading permits will be required for the following:

(1) Agricultural use of land zoned agricultural.

(2) Grading or excavations below finished grade for basements, footings, retaining walls or other structures that result in land disturbing activity of less than one acre in size and are not part of a common plan of development or sale, unless required by section 12-202.

(3) A sidewalk or driveway, authorized by a valid permit, that is less than one acre in size and not part of a common plan of development or sale.

(4) Gravel, sand, dirt or topsoil removal as approved by the state mined land reclamation board, provided that approval includes an erosion plan that meets the requirements specified by this chapter.

(5) Upon sites where the director of public works certifies in writing that the planned work, final structures or topographical changes do not meet the conditions described in subsection 12-194(a)(3) or 12-196(2).

(6) Even though permits are not required under subsections (1) through (5) of this section, those operations and construction activities which are exempted from obtaining permits must comply with the rules and regulations concerning grading and erosion specified in this chapter, and shall provide appropriate controls to retain any eroded soil on the construction site.

(Code 1994, § 9.18.150; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 43, 2003, § 2, 6-17-2003; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.150, 7-2-2019)

Sec. 12-204. Inspection, control and stop-work orders.

(a) The requirements of this chapter shall be enforced by the director of public works. The director of public works shall have the authority to inspect the work and require the property owner and/or developer to obtain services for adequate on-site inspection, including compaction testing by an acceptable soil engineer, if determined necessary.

(b) If the director of public works finds that eroded soils are leaving the area where construction activities are occurring, the director of public works may order the property owner and/or developer to install any and all erosion controls that are deemed necessary to prevent said soil erosion from migrating off-site.

(c) Stop-work orders. When any construction activities are being performed in noncompliance with any provisions of this chapter or any other applicable law, rule or regulation, the director of public works may order the work stopped by serving written notice describing the violation upon the person performing the construction activities. The person should immediately stop work and not proceed with any work until written approval to proceed has been obtained from the director of public works. If the person cannot be located, the notice may be

posted in a conspicuous place upon the site of the construction activities. The notice shall not be removed until the violation has been cured or authorization to remove the notice has been issued by the director of public works.

(d) Developed property. Oversight of developed property from which pollutants, sediment, concrete wastes and other materials are allowed to spread are addressed and enforced pursuant to chapter 7 of title 20 of this Code.

(Code 1994, § 9.18.160; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.160, 7-2-2019)

Sec. 12-205. Notice of violation.

The director of public works may issue a notice of violation to any property owner and/or developer who has not obtained a grading permit pursuant to this chapter or has failed to implement a CSESCP and maintain the site as proscribed in the CSESCP.

(Code 1994, § 9.18.170; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.170, 7-2-2019)

Sec. 12-206. Code violation.

(a) A violation noticed under this chapter shall be deemed a misdemeanor infraction, shall proceed in accordance with ~~Section 2.09.120~~ chapter 2 of title 11 of this Code and shall be subject to penalties set forth in Chapter 10 of title 1 of this Code.

(b) In addition, if a permit holder violates a condition of a city-issued grading permit, this chapter or applicable state or federal laws or regulations regarding construction activities, the city shall revoke the grading permit. The city may reinstate the permit upon a showing of proof that the noncompliance has been corrected.

(Code 1994, § 9.18.180; Ord. No. 37, 2012, § 1, 10-2-2012; Ord. No. 31, 2019, exh. A, § 9.18.180, 7-2-2019)

Sec. 12-207. Penalties and enforcement.

(a) Whenever any person is in noncompliance with the provisions of this chapter, the ~~hearing officer~~ administrative hearing officer may impose penalty fines up to the amount of $1,000.00 per day per violation and pursue ~~the code infraction~~ sanctions ~~as~~ defined in chapter 10 of title 1 of this Code and any other sanctions permitted under law. Each repeat violation must be set forth on a notice of violation form and served as set forth in ~~subsection 2.09.120(d)~~ chapter 12 of title 2 of this Code.

(b) Whenever the ~~administrative authority~~ city manager or designee determines a person is violating or failing to comply with any provision of this chapter, the ~~administrative authority~~ city manager or designee may immediately issue a cessation order causing the person to immediately cease all operations which violate and fail to comply with this chapter until such person has complied with the provisions of this chapter. This order of cessation of activities is additional to any other penalties, sanctions or remedies contained in this chapter or otherwise allowed by law.

(c) The city may seek and obtain remedies, including, but not limited to, civil and administrative sanctions and temporary or permanent injunctive relief against persons for noncompliance with the provisions, standards and requirements of this chapter.

(d) Any fee which shall not be paid when due may be recovered in an action at law by the city. In addition to any other remedies or penalties provided by this chapter or any ordinance of the city, the administrative hearing officer is hereby empowered and directed to enforce this provision as to any and all delinquent users. The employees of the city shall, at all reasonable times, have access to any premises served by the city for inspection, repair or the enforcement of the provisions of this chapter.

(Code 1994, § 9.18.190; Ord. No. 15, 1996, § 1, 3-19-1996; Ord. No. 46, 2006, § 1, 10-17-2006; Ord. No. 37, 2012, § 1, 10-2-2012)

Secs. 12-208--12-237. Reserved.

CHAPTER 4. ERADICATION OF GRAFFITI VANDALISM

Sec. 12-238. Legislative intent.

The city council finds and declares that defacing of public or private property by painting, drawing, writing,

etching or carving, by use of paint, spray paint, ink, knife or any similar method, commonly referred to as graffiti vandalism, constitutes a serious and growing menace, injurious to the public health, safety, morals and general welfare of the residents of the city; that graffiti vandalism contributes substantially to the spread of violence and crime; and that prompt eradication of graffiti vandalism is necessary to control the spread of graffiti vandalism and promote the public health, safety, morals and general welfare of the residents of the city.

(Code 1994, § 9.60.010; Ord. No. 12, 2007, § 1, 4-3-2007)

Sec. 12-239. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agent means an individual or entity that is authorized by a business or property owner to act on his behalf with regard to the business or property.

Deface means to mar the external appearance or injure, impair or destroy by effacing significant details of something by removing, distorting, adding to or covering all or a part thereof.

Graffiti vandalism means any unauthorized defacement of public or private property, including, but not limited to, buildings, structures, fixtures, sidewalks or other improvements, whether permanent or temporary, with any inscription, word, figure, sign, symbol, marking or design, by means of painting, marking, drawing, writing, etching or carving, by use of paint, spray paint, ink, knife or any similar method, and which is visible from the public right-of-way or an adjacent property.

Owner or *property owner* means any person holding legal title to any property, real or personal, located within the city boundaries.

Property means any structure, building, premises, business, vacant lot, single-family dwelling, multifamily dwelling or any other real or personal property located within the city.

Tenant means any person leasing, renting, using or in any other way occupying the property of another for any term with his assent, express or implied.

(Code 1994, § 9.60.020; Ord. No. 12, 2007, § 1, 4-3-2007)

Sec. 12-240. Declaration of public nuisance.

All property defaced by graffiti vandalism is declared to be a public nuisance and is a Code ~~infraction subject to the sanctions set forth in~~ violation punishable pursuant to chapter 10 of title 1 of this Code.

(Code 1994, § 9.60.030; Ord. No. 12, 2007, § 1, 4-3-2007)

Sec. 12-241. Concurrent remedies.

The procedures set forth in this article for defaced property shall not be exclusive and shall not restrict the city from concurrently enforcing other city ordinances or pursuing any other remedy provided by law.

(Code 1994, § 9.60.040; Ord. No. 12, 2007, § 1, 4-3-2007)

Sec. 12-242. Duty of property owners, agents and tenants.

It is the duty of every person, whether owner, agent or tenant of any property, at all times to maintain the property in a clean and orderly condition, including the immediate removal or abatement of graffiti vandalism from the property.

(Code 1994, § 9.60.050; Ord. No. 12, 2007, § 1, 4-3-2007)

Sec. 12-243. Abatement by city.

Any property owner, agent or tenant whose property has been defaced by graffiti vandalism may voluntarily agree to immediate removal or eradication of the graffiti vandalism by the city, which removal shall be without charge to the property owner, agent or tenant, if the property owner, agent or tenant contacts the city within 72 hours after the graffiti vandalism occurs, or after verbal or written notice is provided by the city that graffiti vandalism has been found on the property.

(1) If the property owner, agent or tenant agrees to such abatement by the city, those persons designated by the city to execute abatement are expressly authorized to enter upon the owner's property for the purpose of causing the removal or eradication of graffiti vandalism.

(2) Such agreement by the owner authorizes the city to abate or remove the graffiti vandalism by any available and appropriate means. This includes the use of chemicals to remove the vandalism or the use of paint to cover the vandalism. The city does not guarantee any color matching if paint is determined to be the most appropriate abatement procedure.

(Code 1994, § 9.60.060; Ord. No. 12, 2007, § 1, 4-3-2007)

Sec. 12-244. Notice of violation.

The ~~administrative authority~~ city manager or designee may issue a "notice of violation" to any property owner, agent or tenant of any property who fails to remove or abate graffiti vandalism from the property either by his own action or as described in section 12-243. Such notice of violation shall be issued in accordance with section ~~2.09.120~~ chapter 12 of title 2 of this Code.

(Code 1994, § 9.60.070; Ord. No. 12, 2007, § 1, 4-3-2007)

Sec. 12-245. Administrative hearing procedures.

A notice of violation issued under section 12-244 shall proceed ~~as a Code infraction~~ in accordance with ~~section 2.09.120~~ chapter 12 of title 2 of this Code and shall be subject to penalties as set forth in chapter 10 of title 1 of this Code.

(Code 1994, § 9.60.080; Ord. No. 12, 2007, § 1, 4-3-2007)

Secs. 12-246--12-268. Reserved.

CHAPTER 5. REFUSE AND LITTER CONTROL

Sec. 12-269. Refuse accumulations; duty of owner.

(a) It is the duty of every person, whether owner, agent or tenant of any building, premises or vacant lot, including, but not limited to, any place of business, hotel, restaurant, residence 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 litter other than ~~those~~ what is ordinarily attendant upon the use for which such premises are legally intended. Nothing in this section shall prohibit the placement of trash, garbage or refuse containers for pick-up on public rights-of-way for one 24-hour period within a seven-day period. ~~Prohibited items include, but are not limited to, any such material commonly considered refuse and placed so as to be visible at ground level from a public right-of-way, street, alley or adjacent property or which may provide harborage for rats, mice or other vermin.~~

(b) All refuse and debris remaining as a result of the demolition or repair of any buildings or the erection and completion of any buildings shall be removed following substantial completion of the work. Any such accumulation shall constitute a Code infraction and a violation of this environmental sanitation code.

(Prior Code, § 13-133(part); Code 1994, § 9.16.120; Ord. No. 19, 1988, § 1(part), 5-17-1988; Ord. No. 43, 1994, § 2, 11-1-1994; Ord. No. 56, 1994, § 1, 12-20-1994; Ord. No. 46, 2006, § 1, 10-17-2006)

Sec. 12-270. Placing refuse or litter on premises prohibited; unhealthful or nuisance materials.

It is unlawful to deposit or place any refuse or litter in such a manner that the same is or tends to become a nuisance or in such manner that the same endangers or tends to endanger the public health. No person shall, in any manner, throw, place, scatter, deposit or bury any refuse or litter in or upon any public ~~street, alley or other public place, or upon his own premises or the premises of another~~ or private property.

(Prior Code, § 13-137; Code 1994, § 9.16.170)

Sec. 12-271. Throwing or sweeping refuse.

It is unlawful for refuse of any kind or nature whatsoever to be thrown or swept into any street, sidewalk, gutter, sewer, intake, alley, vacant lot or other property.

(Prior Code, § 13-138; Code 1994, § 9.16.180)

Sec. 12-272. Interference with refuse containers and contents.

No person shall molest, remove, handle or otherwise disturb any refuse containers, bags, brackets or contents for servicing by the collectors, provided that this section does not apply to the owner, occupant, lessee or tenant of the residence or dwelling so placing the containers and contents.

(Prior Code, § 13-139; Code 1994, § 9.16.190)

Sec. 12-273. Violations.

A violation of this chapter shall be punishable pursuant to chapter 10 title 1 of this Code.

Secs. 12-274--12-292. Reserved.

CHAPTER 6. NOISE CONTROL

ARTICLE I. GENERALLY

~~**Chapter 9.20**~~

Sec. 12-293. Definitions.

~~**Sec. 9.20.010. Applicability.**~~

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~**Sec. 9.20.020. Reserved.**~~

~~**Sec. 9.20.030. Commercial purpose.**~~

Commercial purpose means and includes the use, operation or maintenance of any sound-amplifying equipment for the purpose of advertising any business, any goods or any services or for the purpose of attracting the attention of the public to, advertising for or soliciting the patronage of customers to or for, any performance, show, entertainment, exhibition or event or for the purpose of demonstrating such sound equipment.

~~**Sec. 9.20.040. Commercial district.**~~

Commercial district means any parcel of land zoned with any commercial classification pursuant to the ~~zoning and land use chapter of this~~ Development Code.

~~**Sec. 9.20.050. Construction activities.**~~

Construction activities means any and all activity incidental to the erection, demolition, assembling, altering and installing or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling.

~~**Sec. 9.20.060. Device.**~~

Device means any mechanism which is intended to produce or which actually produces sound when operated or handled.

~~**Sec. 10-295.20.070. Dynamic braking device.**~~

Dynamic braking device means a device, used primarily on trucks, for the conversion of the motor from an internal combustion engine to an air compressor for the purpose of braking.

~~**Sec. 9.20.080. Emergency work.**~~

Emergency ~~work~~ means ~~work~~ made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger or potential danger.

~~**Sec. 9.20.090. Industrial district.**~~

Industrial district means any parcel of land zoned with any industrial classification pursuant to the Development Code.

~~**Sec. 9.20.100. Motor vehicles.**~~

Motor vehicles means any vehicle such as, but not limited to, a passenger vehicle, truck, truck-trailer, trailer or semitrailer propelled or drawn by mechanical power and shall include motorcycles, snowmobiles, minibikes, go-carts and any other vehicle which is self-propelled.

~~**Sec. 9.20.110. Muffler.**~~

Muffler means an apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

~~**Sec. 9.20.120. Noncommercial purpose.**~~

Noncommercial purpose means the use, operation or maintenance of any sound amplifying equipment for other than a commercial purpose. The term "noncommercial purpose" means and includes, but shall not be limited to, philanthropic, political, patriotic and charitable purposes.

~~**Sec. 9.20.125. Noise.**~~

Noise means any sound, including, but not limited to, sounds that are shrill, impulsive, continuous, rhythmic, or periodic, or that create vibrations.

~~**Sec. 9.20.130. Plainly audible.**~~

Plainly audible means any sound that can be detected and clearly comprehended by a person using their own unaided hearing faculties.

~~**Sec. 9.20.140. Residential district.**~~

Residential district means any parcel of land zoned with any residential classification, or any parcel of land zoned with a residential PUD classification pursuant to the Development Code.

~~**Sec. 9.20.150. Sound amplifying equipment.**~~

Sound-amplifying equipment means any machine or device for the amplification of a human voice, music or any other sound, or by which the human voice, music or any other sound is amplified.

(Prior Code, § 15-130(2--14); Code 1994, §§ 9.20.030--9.20.150; Ord. No. 04, 2008, § 2, 2-5-2008; Ord. No. 23, 2012, § 1, 7-3-2012; Ord. No. 3, 2015, § 1(exh. A), 1-20-2015)

~~**Sec. 9.20.160. Reserved.**~~

Sec. 12-295. Technical terminology; definitions by reference.

All technical terminology used in this article, unless the context otherwise requires, shall be defined in accordance with American National Standards Institute (ANSI) publication S1.1-1960, revised 1971, or successor publications of ANSI or its successor bodies.

(Prior Code, § 15-130(16)(part); Code 1994, §§ 9.20.010, 9.20.170)

Secs. 12-296--12-324. Reserved.

~~Chapter 9.24~~

ARTICLE II. LIMITATIONS GENERALLY

Sec. 12-325. Unlawful noise, generally; designated.

(a) The making or creating of any noise emitted at levels that annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities, is unlawful. Noises described in article II of this chapter and section 12-370 and 12-361 are presumptively unlawful.

(b) Stationary or moving rail vehicles shall comply with the provisions of this article except as provided for in the United States Noise Control Act of 1972 (Public Law 92-574).

(Prior Code, § 15-131; Code 1994, § 9.24.010; Ord. No. 7, 2006, § 1, 3-7-2006; Ord. No. 23, 2012, § 1, 7-3-2012; Ord. No. 3,

2015, § 1(exh. A), 1-20-2015;)

Sec. 12-326. Exemptions designated; special permit conditions.

Nothing in this article shall be construed to apply to or restrict any activity conducted by any person for the safety or protection of life or property in an emergency situation, nor shall the provisions of the division apply to:

(1) Authorized emergency vehicles, as defined in chapter 1 of title 16 of this Code, when such emergency vehicles are responding to, but not returning from, an emergency call, unless the return is of an emergency nature;

(2) Any bell or chimes from any church, clock or school;

(3) Authorized construction activity of the city, as approved by the director of public works or his designees for emergency construction or necessary street repair; or

(4) The use of heavy equipment for the removal of snow from private parking lots within 24 hours of the termination of the snowfall.

(Code 1994, § 9.24.040; Ord. No. 23, 2012, § 1, 7-3-2012)

~~Chapter 9.28 Unlawful Noises~~

Sec. 12-327. Horns or other signaling devices sounding; exception.

The sounding of any horn or audible signaling device on any truck, automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning signal, as provided in the traffic code, is unlawful.

(Prior Code, § 15-133(a)(1); Code 1994, § 9.28.010)

Sec. 12-328. Length of sounding.

The sounding of a horn or audible signaling device for any unnecessary and unreasonable period of time is unlawful.

(Prior Code, § 15-133(a)(3); Code 1994, § 9.28.030)

Sec. 12-329. Sound-reproduction devices, machines or vehicles; hours and audibility standard.

(a) Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television set, phonograph or other machine or device for the production or reproduction of sound between the hours of 10:00 p.m. and the following 7:00 a.m. in such a manner as to be plainly audible at the property boundary of the source or plainly audible through party walls within a building is unlawful.

(b) Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television set, phonograph or other machine or device for the production or reproduction of sound at any time in such a manner as to be plainly audible at 50 feet from such device when operated within a vehicle is unlawful.

(c) It is unlawful for a person to knowingly create loud and excessive noise during the operation of a motor vehicle, which includes, but is not limited to, squealing the tires of a motor vehicle while it is stationary or in motion, rapid acceleration, producing smoke from tire slippage or leaving visible tire acceleration marks on the surface of the roadway or ground.

(d) A violation of this section is a misdemeanor infraction and shall be punishable under chapter 9 of title 1 of this Code.

(Prior Code, § 15-133(a)(4); Code 1994, § 9.28.040; Ord. No. 17, 1998, § 1, 4-7-1998; Ord. No. 69, 2001, § 1, 8-7-2001; Ord. No. 27, 2010, § 1, 7-20-2010; Ord. No. 09, 2011, § 1, 2-15-2011)

Sec. 12-330. Public entertainment places; violating OSHA standards.

Operating or permitting to be operated in an enclosed place of public entertainment any loudspeaker or other source of amplified sound in such a manner as to violate the permissible noise exposure of the U.S. Occupational Safety and Health Act (OSHA) for any individual in the enclosed place of public entertainment is unlawful.

(Prior Code, § 15-133(a)(5); Code 1994, § 9.28.050)

Sec. 12-331. Use of dynamic braking devices; exception.

Operating any motor vehicle with a dynamic braking device engaged, except for the aversion of imminent danger, is unlawful.

(Prior Code, § 15-133(a)(6); Code 1994, § 9.28.060)

Sec. 12-332. Hours of operation for refuse collecting and compacting vehicles.

It shall be unlawful to operate any refuse compacting or collecting vehicle for the purpose of collection or compaction of refuse or recyclable materials in a residential district, or within 300 feet of any residential district in the city, between the hours of 10:00 p.m. and 7:00 a.m., except such vehicles may begin operation at K—12th grade school sites at 6:00 a.m. during the period of time when such schools are in session.

(Prior Code, § 15-133(a)(7); Code 1994, § 9.28.070; Ord. No. 37, 1995, § 1, 9-5-1995; Ord. No. 49, 1996, § 1, 9-17-1996; Ord. No. 23, 2012, § 1, 7-3-2012)

Sec. 12-333. Motor vehicles beyond 10,000 pounds.

Operating or permitting the operating of any motor of a motor vehicle in excess of 10,000 pounds, manufacturer's gross vehicle weight or any attached auxiliary equipment, for a consecutive period longer than ten minutes, while such vehicle is standing on a public right-of-way in a residential district or is on private property in a residential district and is not within a completely enclosed structure, is unlawful.

(Prior Code, § 15-133(a)(8); Code 1994, § 9.28.080)

Secs. 12-334--12-354. Reserved.

~~Chapter 9.32~~

ARTICLE III. SOUND-AMPLIFYING EQUIPMENT

Sec. 12-355. Residential districts; certain installation, use or operation prohibited; permits.

It is unlawful for any person to install, use or operate a loudspeaker or sound-amplifying equipment in a fixed or movable position, or attached to or mounted upon any motor vehicle, within a residential district for the purpose of giving instructions, directions, talks, addresses or lectures, or for transmitting music or sound to any persons or assemblages of persons; provided, however, that a permit as described in sections 12-357, 12-358 and 12-359 may be applied for, for activities such as but not limited to, concerts, speeches or lectures held in public parks of the city.

(Prior Code, § 15-134(a); Code 1994, § 9.32.010)

Sec. 12-356. Commercial or industrial districts; permit required.

It is unlawful for any person to install, use or operate a loudspeaker or sound-amplifying equipment in a fixed or movable position, or attached to or mounted upon any motor vehicle, within a commercial or industrial district for the purpose of giving instructions, directions, talks, addresses or lectures, or for transmitting music or sound to any persons or assemblages of persons, without first obtaining a permit pursuant to sections 12-357, 12-358 and 12-359.

(Prior Code, § 15-134(b); Code 1994, § 9.32.020)

Sec. 12-357. Permit application.

An application for a permit shall be directed to the chief of police and shall provide the following information:

(1) The name, address and telephone number of both the owner and user of the sound-amplifying equipment;

(2) The license number of a vehicle which is to be used;

(3) The general description of the sound-amplifying equipment which is to be used;

(4) Whether the sound-amplifying equipment will be used for commercial or noncommercial purposes; and

(5) The dates and times upon which and the streets over which the equipment is proposed to be operated.

(Prior Code, § 15-135(a); Code 1994, § 9.32.030; Ord. No. 23, 2012, § 1, 7-3-2012)

Sec. 12-358. Issuance.

(a) A permit shall be issued unless the chief of police or his designee finds that the conditions of motor vehicle movement or pedestrian movement are such that the use of the equipment would constitute an unreasonable interference with traffic safety or that the applicant for the permit cannot or will not comply with the provisions of section 12-359, and no variance has been granted.

(b) The chief of police or his designee may grant a variance to the requirements set forth in section 12-359 upon finding that such variance serves the public interest. In making such a determination, the chief of police or his designee shall consider the needs of the community, the reason for the variance request and the impact to surrounding areas.

(Prior Code, § 15-135(b); Code 1994, § 9.32.040; Ord. No. 23, 2012, § 1, 7-3-2012)

Sec. 12-359. Hours of operation.

Unless a variance is granted authorizing additional or different hours of operation, commercial and noncommercial sound-amplifying equipment shall be operated only between the hours of 7:00 a.m. and 10:00 p.m. of each day; except that the operation of sound-amplifying equipment for commercial purposes on Sundays and legal holidays is permitted only between the hours of 10:00 a.m. and 4:00 p.m.

(Prior Code, § 15-135(c); Code 1994, § 9.32.050; Ord. No. 23, 2012, § 1, 7-3-2012)

Sec. 12-360. Unlawful acts; hours; sound level; proximity to public sessions; penalties; repeat offenses.

A person commits a violation of this section if he uses or operates sound-amplifying equipment:

(1) Out of doors, except between 7:00 a.m. and 10:00 p.m.

(2) Indoors, if the projection of the sound is plainly audible to persons out of doors and at or beyond the property line from which the sound is being emitted.

(3) At a sound level higher than necessary to accomplish the purposes for which a permit from the chief of police was granted.

(4) Within 500 feet of any place where a public council, board or court is in session.

(5) That produces any noise emitted at levels which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities.

(Prior Code, § 15-133(b); Code 1994, § 9.32.060; Ord. No. 7, 2006, § 1, 3-7-2006; Ord. No. 41, 2006, § 1, xx-xx-2006; Ord. No. 3, 2015, § 1(exh. A), 1-20-2015;)

Sec. 12-361. Defense; sound-amplifying equipment defined.

It is an affirmative defense to section 12-360 that the defendant has been granted a permit from the chief of police and that the use and operation of the sound-amplifying equipment has been consistent with the use authorized by the permit. The term "sound-amplifying equipment," as used in this section and section 12-360, means any machine or device for the amplification of the human voice, music or any other sound, but shall not be construed as including such equipment when used in a normal and reasonable manner in or about a residence, business establishment or vehicle if the equipment is designed and intended to be heard only by the occupants thereof.

(Prior Code, § 15-133(c); Code 1994, § 9.32.070; Ord. No. 23, 2012, § 1, 7-3-2012)

Sec. 12-362. Penalties; repeated offenses.

(a) Any person found guilty after trial or plea of: guilt; Alford; nolo contendere; or deferred sentence plea to any provision of section 12-360 shall be guilty of a misdemeanor offense and fined not less than $1,000.00, plus any additional penalties assessed pursuant to chapter 9 of title 1 of this Code, except as provided in subsection (b) of this section.

(b) Up to $750.00 of the fine may be suspended if the guilty party agrees to attend city-sponsored training related to neighborhood conduct and perform 15 hours of community service within the city, as so approved by the municipal court, within three months following his sentencing.

(c) A repeat offense within 365 days from the date of a finding of guilt pursuant to this section shall cause

the full amount of the penalty as may be modified under subsection (b) of this section to be immediately reinstated in full.

(d) For the purposes of assessing penalties for repeated offenses pursuant to this section, the term violation includes each violation at any property or for a tenant, regardless of property location within the city; and the term violation is limited to a violation of the same Code section number.

(Code 1994, § 9.32.080; Ord. No. 7, 2006, § 1, 3-7-2006; Ord. No. 41, 2006, § 2, xx-xx-2006)

Secs. 12-363--12-382. Reserved.

~~**Article III Health and Safety Generally**~~

CHAPTER 7. JUNK AND ABANDONED VEHICLES

Secs. 12-383--12-407. Reserved.

CHAPTER 8. INOPERABLE VEHICLES

Sec. 12-408. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Inoperable means 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.

Unlicensed means a condition of the absence of an effective registration plate or safety inspection sticker.

Vehicle means any trailer (including contents of trailer), whether or not self-propelled, and any nonaquatic, self-propelled vehicle which, as originally built, contained an engine, regardless of whether it contains an engine at any other time, including, without limitation, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the-road vehicles.

(Prior Code, § 15-94(b); Code 1994, § 9.36.010; Ord. No. 57, 1993, § 1, 10-5-1993; Ord. No. 19, 2005, § 1, 3-1-2005)

Sec. 12-409. City council findings.

The city council finds that junked, wrecked, dismantled, inoperable, discarded or abandoned vehicles in and upon real property within the city is a matter affecting the health, safety and general welfare of the citizens of the city, for the following reasons:

(1) Such vehicles serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;

(2) They are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or supports, and because they are a ready source of fire and explosion;

(3) They encourage pilfering and theft and constitute a blighting influence upon the area in which they are located, thereby causing a loss in property value to surrounding property;

(4) They constitute a fire hazard in that they block access for fire equipment to adjacent buildings and structures.

(Prior Code, § 15-94(a); Code 1994, § 9.32.020)

Sec. 12-410. Parking and storage of inoperable vehicles prohibited; exceptions.

Except as provided in section 12-412, it shall be a Code ~~infraction~~ violation punishable pursuant to chapter 10 of title 1 for any person, partnership, corporation or their 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 or unlicensed vehicle unless it is in a garage or other building.

(Prior Code, § 15-94(c); Code 1994, § 9.32.030; Ord. No. 19, 2005, § 2, 3-1-2005; Ord. No. 46, 2006, § 1, 10-17-2006)

Sec. 12-411. Time limit to prohibition.

The provisions of section 12-410 shall not apply to any person, partnership or corporation, or their agent with

one vehicle inoperable for a period of 14 consecutive days or less.

(Prior Code, § 15-94(d); Code 1994, § 9.32.040; Ord. No. 19, 2005, § 3, 3-1-2005)

Sec. 12-412. Business and screened vehicles.

The provisions of section 12-410 shall not apply to any person, firm or corporation, or their agent, who is conducting a business enterprise in compliance with existing zoning regulations.

(Prior Code, § 15-94(e); Code 1994, § 9.32.050; Ord. No. 57, 1993, § 2, 10-5-1993; Ord. No. 19, 2005, § 4, 3-1-2005)

Sec. 12-413. Presumption of inoperability; conditions.

Any of the following conditions shall raise the presumption that a vehicle is inoperable:

(1) Placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports;

(2) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways;

(3) Extensive damage to the vehicle, including, but not limited to, any of the following: a broken window, windshield or both, missing wheels, tires, motor or transmission.

(Prior Code, § 15-94(f); Code 1994, § 9.32.060; Ord. No. 57, 1993, § 3, 10-5-1993; Ord. No. 19, 2005, § 5, 3-1-2005)

~~**Sec. 9.36.070. Violations; notice of violation.**~~

~~The administrative authority may inspect any lot, block or parcel of ground within the city upon receipt of a complaint, from referral by another City department or upon observation during the normal course of duties, concerning inoperable vehicles or unlicensed vehicles. If, after inspection, the administrative authority determines that a violation exists, a notice of violation may be issued to the owner, tenant or agent of the real property upon which such inoperable vehicle or unlicensed vehicle is located, and the notice of violation may be issued without prior notice. If the administrative authority cannot serve the notice of violation directly to the owner, tenant or agent, the notice of violation shall be served as provided in subsection 2.09.120(c) of this Code.~~

~~If an inoperable vehicle is located on private property, and if the property owner, tenant or owner's authorized agent has complied with the notice provisions of the Greeley Traffic Code, the private property owner, tenant or owner's authorized agent may cause removal from the owner's property as provided by law.~~

~~The city shall make available and provide notification stickers to private property owners, which stickers may be available to such owners, upon request and free of charge, for placement on inoperable vehicles located on the owner's private property.~~

~~(Code 1994, § 9.32.070; Ord. No. 46, § 1, 2006; Ord. No. 17, 2005 §7, 3-1-2005; Ord. No. 25, 1999 § 3(part); Ord. No. 57, 1993 § 4; Prior Code, § 15-94(g))~~

~~**Sec. 9.36.090. Sanctions.**~~

~~Any violation of this chapter shall be a code infraction, and sanctions shall be as set forth in chapter 1.33 of this Code.~~

~~For the purposes of assessing sanctions for repeated offenses pursuant to this section, *violation* includes each violation at any property or for an owner, agent or tenant regardless of property location within the city; and *violation* is limited to a violation of the same Municipal Code section. Each repeat violation must be set forth on a notice of violation form and served as set forth in subsection 2.09.120(d) of this Code.~~

~~(Code 1994, § 9.32.090; Ord. No. 26, § 1, 2011; Ord. No. 17, 2005 §9, 3-1-2005; Ord. No. 25, 1999 § 3; Ord. No. 57, 1993 § 6)~~

Sec. 12-414. Removal of inoperable vehicles.

If an inoperable vehicle or unlicensed vehicle is not removed or properly stored following the issuance of a summons by the ~~administrative authority~~ city manager or designee, ~~pursuant to section 9.36.070,~~ the ~~administrative authority~~ city manager or designee may arrange for summary removal of the inoperable vehicle as provided in the title 14 of this Code.

(Code 1994, § 9.32.100; Ord. No. 57, 1993, § 6, 10-5-1993; Ord. No. 25, 1999, § 3, 6-15-1999; Ord. No. 17, 2005, § 9, 3-1-2005)

Secs. 12-415--12-441. Reserved.

CHAPTER 9. RODENT AND VERMIN CONTROL

ARTICLE I. GENERALLY

Secs. 12-442--12-465. Reserved.

~~CHAPTER 9.17~~ ARTICLE II. PRAIRIE DOGS

Sec. 12-466. Generally.

(a) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Prairie dog means any of the social, burrowing, North American rodents comprising the genus *cynomys* of the squirrel family (*sciuridae*), characterized by a stout body with brown fur, short legs, short tail and barking cries.

(b) Prairie dogs are declared to be detrimental and injurious to the public health, safety and welfare of the inhabitants and property, both public and private, of the city and they are determined and declared a public nuisance.

(c) Nothing contained in subsection (b) of this section shall be construed or intended to include within the definition of a public nuisance any animal designated by a state or federal agency as an endangered animal under state or federal law.

(d) Nothing contained in subsection (b) of this section shall be construed or intended to authorize the destruction or removal of an animal declared a public nuisance in violation of any state or federal law, rule or regulation related to any threatened or endangered animal.

(Code 1994, § 9.17.010; Ord. No. 11, 2012, § 2, 3-20-2012)

Sec. 12-467. Control of infestation.

(a) No owner of any lots, blocks or parcels of land area or fraction thereof within the city, nor any tenant or agent in charge thereof, shall allow or permit said lots, blocks or parcels of land area or fraction thereof to become or remain infested with prairie dogs or prairie dog nests or burrows; provided, however, that where such nests or burrows are necessary for the maintenance of wildlife listed as threatened or endangered by state or federal law, rule or regulation, such nests or burrows may be maintained in accordance with such state or federal law, rule or regulation.

(b) For the purpose of this section, the term "infestation" shall mean the presence of more than one prairie dog burrow or nest per 900 square feet of land surface area.

(c) The ~~administrative authority~~ city manager or designee shall have the right to inspect all property within the city on both public and private property to determine if an infestation of prairie dogs exists.

(Code 1994, § 9.17.020; Ord. No. 11, 2012, § 2, 3-20-2012; Ord. No. 21, 2013, § 1, 7-16-2013)

Sec. 12-468. Nuisance; abatement; notice.

(a) If an owner of any lot, block or parcel of ground within the city, or any tenant or agent in possession or in charge thereof, fails or refuses to remove or eliminate prairie dog infestations or prairie dog nests or burrows as required in section 12-467 within 30 days after being served notice to do so by an agent or employee of the city, the city may have the prairie dogs, nests or burrows removed and abated by an employee of the city or by a private firm or individual, as provided in this section, and charge the cost thereof to such owner, tenant or agent, together with an additional $50.00 plus 20 percent for inspection, administration and other costs. In the event that the health department or other public health official identifies the presence of a communicable disease, abatement shall occur within such shorter time as specified by the health department or official.

(b) Issuance of notice of violation. The ~~administrative authority~~ city manager or designee may inspect any lot, block or parcel of ground within the city upon receipt of a complaint, from referral by another city department

or upon observation during the normal course of duties, concerning prairie dog infestation. If, after inspection, the ~~administrative authority~~ city manager or designee determines that a violation exists, a notice of violation may be issued to the owner, tenant or agent of the lot, block or parcel, and the notice of violation may be issued without prior notice. If the ~~administrative authority~~ city manager or designee cannot serve the notice of violation directly to the owner, tenant or agent, the notice shall be served as set forth in chapter 12 of title 2 of this Code. The notice shall also specify that all procedures and acts undertaken to abate said nuisance shall conform to all municipal, state and federal law and regulations governing the taking, trapping, killing or disposal of wildlife and wildlife nests and burrows.

(c) In addition to charges for abatement, failure to comply with requirements of this chapter also constitutes a Code ~~infraction~~ violation and is subject to the penalty provisions of chapter 10 of title 1 of this Code.

(d) If it is determined that employees of the city are not available to abate the nuisance pursuant to the provisions of this section, the city may solicit bids from properly licensed individuals or firms to undertake the necessary abatement, retaining the lowest qualified bidder to accomplish the abatement.

(e) In the event that a private person or firm accomplished the abatement as provided in this section, the city shall provide a copy of the lowest bid with the notice for payment served on any owner, tenant or agent as provided in section 12-469.

(f) In order to encourage the provision of services to protect the public health and safety and to allow the city to allocate its limited fiscal resources, nothing contained in this section shall be intended or construed to impose any duty of care, liability or obligation on the city or any of its employees or agents where none otherwise existed.

(g) Nothing contained herein shall be construed or intended to authorize the destruction or removal of an animal declared a public nuisance in violation of any state or federal law, rule or regulation related to any threatened or endangered animal.

(Code 1994, § 9.17.030; Ord. No. 11, 2012, § 2, 3-20-2012)

Sec. 12-469. Payment of abatement costs; notice.

In the event the city undertakes the abatement as provided in section 12-468, a written notice for payment shall be provided to the owner, tenant or agent in charge of the lot, block or parcel upon which the nuisance was abated. This notice shall be sent by certified mail and contain the amount owed and a statement that it shall be paid to the director of finance within 30 days after the mailing of the same by the director of finance. A copy of the lowest bid, as provided in section 12-468(d), shall be attached.

(Code 1994, § 9.17.040; Ord. No. 11, 2012, § 2, 3-20-2012)

Sec. 12-470. Failure to pay assessment.

Failure to pay an assessment as provided for in section 12-469 within 30 days shall cause such assessment to become a lien against the lot, block or parcel of land upon which abatement occurred and shall have priority over all liens, except general taxes and prior special assessment, and the same may be certified at any time after such failure to so pay by the director of finance to the county treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection as provided by the laws of the state.

(Code 1994, § 9.17.050; Ord. No. 11, 2012, § 2, 3-20-2012)

Sec. 12-471. Nuisance abatement to conform to law.

Any person, firm business or contractor undertaking to remove, eliminate or abate any nuisance as provided under sections 12-469 through 12-469 shall comply with all municipal, state and federal regulations and laws governing the taking, trapping, killing and disposal of wildlife and wildlife nests or dens.

(Code 1994, § 9.17.060; Ord. No. 11, 2012, § 2, 3-20-2012)

Sec. 12-472. Sanctions.

Any person who violates any provision of this chapter or performs any unlawful act defined by this chapter, any person who fails to perform any action required by this chapter or any person who fails or refuses to comply

with any lawful order given pursuant to this chapter ~~commits a Code infraction and~~ shall be subject to the provisions of chapter 12 of title 2 of this Code and sanctions set forth in chapter 10 of title 1 of this Code.

(Code 1994, § 9.17.070; Ord. No. 11, 2012, § 2, 3-20-2012)

Sec. 12-473. Enforcement.

The employees of the city shall, at all reasonable times, have access to any premises served by the city for inspection and enforcement of the provisions of this chapter.

(Code 1994, § 9.17.080; Ord. No. 11, 2012, § 2, 3-20-2012)

Secs. 12-474--12-499. Reserved.

CHAPTER 10. PEST AND WEED CONTROL

ARTICLE I. GENERALLY

Sec. 12-500. Plant management advisory commission established.

In accordance with section 12-70(b)(5) and in addition to the powers and duties set forth therein, the city's air quality and natural resources commission (commission) shall serve as the city's plant management advisory commission as contemplated by C.R.S. § 35-5.5-101, et seq.

(Code 1994, § 9.16.075; Ord. No. 43, 1994, § 2, 11-1-1994; Ord. No. 25, 1999, § 1(part), 6-15-1999; Ord. No. 70, 2002, § 1, 2002)

Sec. 12-501. Powers and duties.

The air quality and natural resources commission shall have the following powers and duties related to plant management:

(1) The commission shall develop and recommend a plan for the integrated management of designated undesirable plants (noxious weed management plan) within the city, including recommended management criteria. The management plan shall be reviewed at regular intervals but not less often than once every three years by the commission. The management plan and any amendments made thereto shall be transmitted to city council for approval, modification or rejection.

(2) The commission shall designate undesirable plants which are recommended to be subject to integrated management as specified according to subsection (1) of this section to be included in the noxious weed management plan.

(3) The commission shall recommend to city council that identified landowners be required to submit an integrated management plan to control designated undesirable plants upon such person's property.

(4) The commission shall have jurisdiction over requests for the granting of variances with respect to the management plan and management criteria created in accordance with the directives of this section.

(5) The commission shall perform other such duties as may be prescribed by city council.

(Code 1994, § 9.16.077; Ord. No. 43, 1994, § 2, 11-1-1994; Ord. No. 25, 1999, § 1(part), 6-15-1999)

Sec. 12-502. Failure to pay a lien.

Failure to pay an assessment as provided for at section 12-608 within such period of 30 days described therein shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments and the same may be certified at any time after such failure to so pay the same within 30 days, by the director of finance to the county treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten percent penalty to defray the cost of collection, as provided by state law.

(Prior Code, § 13-132(part); Code 1994, § 9.16.110; Ord. No. 19, 1988, § 1(part), 5-17-1988; Ord. No. 24, 2004, § 1, 5-18-2004)

Sec. 12-503. Decaying vegetation prohibited.

(a) It is unlawful for any owner or occupant of any lot, structure or building to cause or permit decaying vegetable matter to be present on or in such lot, structure or building. Nothing in this section or in other sections of this article shall prevent any owner or occupant from maintaining a compost pile in conformity with rules promulgated by the ~~administrative authority~~ city manager or designee.

(b) The ~~administrative authority~~ city manager or designee is directed to promulgate rules, which may be changed from time to time, establishing restrictions and directives regarding material in compost piles and methods for the proper care and maintenance of them. Such rules shall be designed to prevent offensive odors and any condition hazardous to health.

(c) The ~~administrative authority~~ city manager or designee shall issue a notice of violation to any owner or occupant responsible for maintaining or permitting the maintenance of a compost pile not in conformity with this Code. The failure to comply with this section is ~~a code infraction~~ subject to the sanctions set forth in chapter 10 of title 1 of this Code.

(Prior Code, § 13-126; Code 1994, § 9.16.040; Ord. No. 43, 1994, § 2, 11-1-1994; Ord. No. 46, 2006, § 1, 10-17-2006)

Secs. 12-504--12-535. Reserved.

ARTICLE II. LANDSCAPING

Secs. 12-536--12-562. Reserved.

ARTICLE III. TREES AND SHRUBS

Division 1. In General

Sec. 12-563. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Parkways means that portion of a street or highway right-of-way, not paved or otherwise set apart for vehicular use, which abuts on the owner's property.

Shrub means a woody plant which consists of a number of small stems from the ground or small branches near the ground and which may be deciduous or evergreen.

Tree means a large woody plant having one or several self-supporting stems or trunks and numerous branches and which may be deciduous or evergreen.

Vegetation means the plant life in the region, including shrubs and plants, but not including trees.

(Code 1994, § 13.42.010; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 12-564. Diseased and dangerous tree, shrub and plant inspection.

It shall be the duty of the city manager or his designee to inspect all trees, shrubs, and plants within the city to determine whether they are afflicted with insect pests, fungus or other disease detrimental to the growth, life and health of such trees, shrubs and plants; and to make such inspections for the additional purpose of discovering any trees, boughs or vegetation that may be dangerous to persons or property. It shall be the duty of all owners or persons in possession of property within the city to eradicate, remove, destroy or otherwise correct the condition found in such inspection.

(Code 1994, § 13.42.030; Ord. No. 30, 2012, § 4, 8-7-2012; Ord. No. 25, 2015 , § 2(exh. B), 7-21-2015)

Sec. 12-565. Correction of dangerous or diseased condition.

It shall be the duty of the city manager or his designee to perform or cause to be performed any spraying, removal or other work as is necessary to correct any condition described at section 12-564 if the owner or other person in possession fails to do so within the time set forth in the notice.

(Code 1994, § 13.42.050; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 12-566. Emergency trimming, removal and treatment.

It shall be the duty of the city manager or his designee to trim, remove or treat any trees or other plant growth in emergency situations in which there is an immediate danger to persons or property caused by such trees or plant growth. The city manager or his designee will, upon completion of trimming, removing or treating, provide the director of finance with a statement of the cost incurred by the city in order to enable the director of finance to prepare the assessment provided for in section 18-358.

(Code 1994, § 13.42.080; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 12-567. Right of entry for inspection and correction of conditions.

The city manager or his designee, and all persons acting under his direction or with his authority, shall have the right to enter upon any premises, including privately-owned premises, at reasonable times, for the purpose of inspecting trees, vegetation, shrubs, plants and boughs and for the additional purpose of performing or causing to be performed any spraying, removal or other work as is necessary to correct a condition which the owner or other person in possession fails to correct.

(Code 1994, § 13.42.100; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 12-568. Cotton-like-substance-bearing trees excluded; exceptions.

It shall be the duty of all owners or persons in possession of property within the city to refrain from planting any trees within the Populus genus that would eventually bear a cotton-like substance, such as plains cottonwoods and silver poplar, except that quaking aspen may be planted in residential areas but not on parkways.

(Code 1994, § 13.42.170; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 12-569. Infected or dangerous vegetation or seeds prohibited.

No person shall import or bring into the city any trees, vines, shrubs or seeds which are infected or are in such a condition as to be dangerous to the life or health of plants or trees in the city, and no person shall sell any such items. The city manager or his designee shall have the right to order any person to cease and desist from importing, receiving for resale or selling any such infected trees, vines, shrubs or seeds. Failure by any person to whom such order is delivered to comply with the terms thereof shall ~~constitute a Code infraction and shall~~ be a violation subject to the penalties provided in chapter 10 of title 1 of this Code.

(Code 1994, § 13.42.230; Ord. No. 30, 2012, § 4, 8-7-2012)

Secs. 12-570--12-584. Reserved.

Division 2. Enforcement

Sec. 12-585. Enforcement.

The enforcement of this article shall be carried out by the city manager or designee in accordance with the provisions in article II of chapter 5 of title 18 of this Code.

Secs. 12-586--12-605. Reserved.

ARTICLE IV. WEEDS

Sec. 12-606. Control of weeds.

(a) *Definitions*. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Administrative authority means the community development director or designee.

Administrative official means the community development department through its natural resources division or designee, which shall be responsible for enforcing compliance with this title.

Containment means maintaining an intensively managed buffer zone that separates infested regions, where suppression activities prevail, from largely uninfested regions, where eradication activities prevail.

Eradication means reducing the reproductive success of a noxious weed species or specified noxious weed population in largely uninfested regions to zero and permanently eliminating the species or population within a specified period of time; once all specified weed populations are eliminated or prevented from reproducing, intensive efforts are to continue until the existing seed bank is exhausted.

Noxious weed means those plants as designated in the noxious weed management plan. The noxious weed management plan is kept on file in the community development department and the city clerk's office. the noxious weed management plan may be updated to include additional noxious weeds after a public hearing and with 30 days' prior notice to the public.

Restoration means the removal of noxious weed species and reestablishment of desirable plant communities on lands of significant environmental or agricultural value in order to help restore or maintain said value.

Suppression means reducing the vigor of noxious weed populations within an infested region, decreasing the propensity of noxious weed species to spread to surrounding lands, and mitigating the negative effects of noxious weed populations on infested lands. Suppression efforts may employ a wide variety of integrated management techniques.

Weed means a troublesome or injurious plant. The term "weed" does not include vegetation commonly recognized, cultivated and maintained as ornamental, herbal, agricultural or xeriscape.

(b) *Prohibited*.

(1) No owner, tenant or agent of any lot, block or parcel of ground within the city shall allow or permit weeds to grow, or remain when grown, on such lot, block or parcel of ground, including vacant or unimproved property, or on or along a sidewalk or street adjoining the same or in the alley behind the same.

(2) Weeds which are in a reproductive (flowering or at seed) stage or when such stage is imminent must be appropriately controlled to eliminate further infestation of the property. Weeds on vacant lots, blocks or parcels which are over 12 inches in height shall be kept cut near the ground. Weeds on developed lots, blocks or parcels must be replaced with appropriate landscape or other lawful property improvement as per chapter 16 of the Greeley Development Code.

(3) It shall be unlawful to intentionally introduce, cultivate, sell, offer for sale or knowingly allow to grow any noxious weed designated pursuant to this chapter or any state statute, except that this prohibition shall not apply to any exceptions provided under state law.

(c) *Inspection*. The ~~administrative official~~ city manager or designee shall have the authority to perform inspections for the presence of weeds during normal business hours or other reasonable times upon receipt of a complaint, from referral by another city department or upon observation during the normal course of duties. The inspection may occur from any public right-of-way or neighboring property, or the ~~administrative official~~ city manager or designee may enter onto the premises as per section 18-15.

(d) *Issuance of notice of violation*. If the ~~administrative authority~~ city manager or designee determines that a violation exists, a notice of violation ~~for a Code infraction~~ may be issued to the owner, tenant or agent of the lot, block or parcel, and the notice of violation may be issued without prior notice. If the ~~administrative authority~~ city manager or designee cannot serve the notice of violation directly to the owner, tenant or agent (such as when the violator is not physically present in the city), the notice of violation shall be served in the manner set forth in chapter 12 of title 2 of this Code. If, within 365 calendar days of a prior notice of violation, the ~~administrative authority~~ city manager or designee performs a second or further inspection (other than an inspection showing compliance) for the same property and finds a second or further violation of the same type, the owner, tenant or agent may immediately receive a new notice of violation for a Code infraction.

(e) *Variances*. Weed variances may be granted under the following circumstances or conditions:

(1) An owner of a tract of land that has been certified as a backyard wildlife habitat may have a brush pile not to exceed eight feet by eight feet wide by three feet in height and as further described in the certification document, if it is permitted by the terms of the backyard wildlife habitat certification. The term "backyard wildlife habitat certification" means certification by the air quality and natural resources

commission or other city entity as may be designated by the city manager in accordance with applicable policies and guidelines, recognizing a yard as having the necessary components to sustain the desired wildlife species. Guidelines for the backyard wildlife habitat certification program may be obtained from the community development or forestry division offices.

(2) An owner of a tract of land that has been certified as a natural area is permitted to have grasses growing in excess of 12 inches high. This variance will be limited to the grass species and areas of the site identified within the certification document. The term "natural area certification" means certification by the air quality and natural resources commission or other city entity as may be designated by the city manager in accordance with applicable and recognized policies and guidelines, designating a site of at least one-quarter acre in size as having the necessary components to be classified as a natural area. Guidelines for the natural area certification program may be obtained from the community development or forestry division offices.

(3) Plants grown for the purpose of personal consumption.

(4) A variance shall not be available with regard to noxious weeds.

(f) *Variance procedures*. A landowner or occupant may seek a variance from requirements of subsection (e) of this section in the following manner:

(1) A variance request shall be submitted on a form supplied by the administrative authority. The request shall contain the name and address of the applicant landowner, a correct legal description of the land involved, a site plan depicting the variance requested, the reasons supporting the request, and a description of the land and existing improvements thereon in sufficient detail to enable the reviewing authority to predict with reasonable accuracy the impact which the proposed variance would have on adjacent and nearby properties and on the city as a whole. The request shall be signed by all owners of the property involved or, if the property is subject to a contract for sale and purchase, by all contract purchasers. If a notification has been provided to a landowner regarding presence of weeds, a variance request shall be considered by the commission only if presented by the landowner to the city, through the administrative official, within five calendar days from the date of the notification.

(2) The request will be forwarded for technical review by the city's administrative review team which shall provide written comment to the air quality and natural resources commission.

(3) The request for variance shall be considered by the commission at the earliest possible opportunity but no later than within 30 days of the request.

a. The commission shall certify the subject property or deny the variance and shall state its findings and conclusions in writing, providing copies of the findings and conclusions to the administrative official and to the subject landowner.

b. If the variance is denied, the landowner must come into compliance with all applicable regulations within five days from the date of the air quality and natural resource commission's findings.

(g) *Noxious weeds prohibited*. The weeds designated in the noxious weed management plan are hereby declared noxious and, as such, are declared a threat to the economic and environmental value of the land within the city, and it is hereby decreed that no owner, tenant or agent shall allow any such plant growth to occur on any lot, block or parcel of ground, including those areas adjoining public rights-of-way. Control and management of noxious weeds shall be done in compliance with the noxious weed management plan.

(h) *Noxious weeds notice*. The city shall have authority with regard to private lands within the municipality, acting directly or indirectly through its agents or staff, to inspect per subsection (c) and to notify the landowner or occupant of such lands, advising said landowner or occupant of the presence of noxious weeds. Said notice shall name the noxious weeds, advise the landowner or occupant to manage the noxious weeds and specify the best available control methods of integrated management. Where possible, the city shall consult with the affected landowner or occupant in the development of a plan for the management of noxious weeds on the premises or lands.

(1) Within five days after service of notification, the landowner or occupant shall:

a. Comply with the terms of the notification; or

b. Acknowledge the terms of the notification and submit in writing a management plan which includes a schedule for the completion of the plan for compliance. Said plan shall be reviewed by the administrative authority within five business days of receipt. If the plan is rejected by the administrative authority, the landowner may request an arbitration panel be convened to determine the final management plan.

1. The arbitration panel selected by the city shall be comprised of a weed management specialist or weed scientist, a landowner of similar land within the city and a third panel member chosen by agreement of the first two panel members. The landowner or occupant shall be entitled to challenge any one member of the panel, and the city shall name a new panel member from the same category. Said panel shall convene at the earliest possible opportunity to consider the case and develop a management plan for the subject property. The decision of the arbitration panel shall be final.

2. The city may assess the landowner costs for any actual expenses incurred for the conduct of the hearing.

(Prior Code, § 13-130; Code 1994, § 9.16.080; Ord. No. 35, 1982, § 2, 6-15-1982; Ord. No. 66, 1986, § 1, 11-18-1986; Ord. No. 19, 1988, § 1(part), 5-17-1988; Ord. No. 43, 1994, § 2, 11-1-1994; Ord. No. 25, 1999, § 2(part), 6-15-1999; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 24, 2004, § 1, 5-18-2004; Ord. No. 17, 2005, § 1, 3-1-2005; Ord. No. 46, 2006, § 1, 10-17-2006; Ord. No. 26, 2011, § 1, 9-6-2011; Ord. No. 42, 2011, § 1, 12-6-2011)

Sec. 12-607. Noxious weeds; failure to comply.

When any owner, tenant or agent fails to eliminate or manage noxious weeds or to take steps as otherwise provided in section 12-606(h) within seven calendar days after personal service, mailing or posting of notice, the administrative authority may have the noxious weeds controlled or removed by an employee of the city or by a private individual or firm, and charge the cost thereof to such owner, tenant or agent, together with an additional $50.00 plus 20 percent for inspections and other incidentals. In the event that the city must eradicate noxious weeds upon any property located within its jurisdiction, the city may assess the whole cost of the eradication, including up to 100 percent of inspection, eradication and other incidental costs in connection with eradication, upon the lot or tract of land where the noxious weeds are located; except that no tax lien shall be levied against land administered as part of a public right-of-way.

(1) The original abatement notice to the owner, tenant or agent in charge shall specify that the costs shall be charged to the property owner if the noxious weed condition is not cured or other authorized action taken within seven calendar days from the date of personal service, posting or mailing of the notice.

(2) In addition to charges for noxious weed removal, failure to comply with the requirements of this chapter ~~also constitutes a code infraction and~~ is subject to the penalty provisions of chapter 10 of title 1 of this Code.

(Prior Code, § 13-131; Code 1994, § 9.16.090; Ord. No. 62, 1982, § 2, 9-21-1982; Ord. No. 19, 1988, § 1(part), 5-17-1988; Ord. No. 43, 1994, § 2, 11-1-1994; Ord. No. 25, 1999, § 2(part), 6-15-1999; Ord. No. 24, 2004, § 1, 5-18-2004; Ord. No. 17, 2005, § 2, 3-1-2005; Ord. No. 46, 2006, § 1, 10-17-2006)

Sec. 12-608. Payment of weed abatement costs.

The costs and any charges assessed under sections 12-607 and 18-358 associated with control of noxious weeds and weeds by the city shall be paid by the owner, tenant or agent of such lot, block or parcel of ground to the director of finance within 30 days after mailing by certified mail a notice of the assessment of such costs by the director of finance to said owner, tenant or agent.

(Prior Code, § 13-132(part); Code 1994, § 9.16.100; Ord. No. 19, 1988, § 1(part), 5-17-1988; Ord. No. 43, 1994, § 2, 11-1-1994; Ord. No. 25, 1999, § 2(part), 6-15-1999; Ord. No. 24, 2004, § 1, 5-18-2004; Ord. No. 17, 2005, § 4, 3-1-2005)

Secs. 12-609--12-625. Reserved.

ARTICLE V. PESTS

Sec. 12-626. Elm bark beetles; responsibility of owner.

The entire city shall be considered as the specific area or zone within which elms are to be protected. Trees, or parts thereof, of elm in a dead or dying condition that are or may serve as breeding places for the European elm bark beetle are a public nuisance and shall be removed and destroyed or buried by the owner of the tree or trees.

(Prior Code, § 13-127; Code 1994, § 9.16.050)

Sec. 12-627. Elm bark beetles; tree inspection.

The ~~administrative authority~~ city manager or designee shall examine and inspect all trees within the city on both public and private property for signs of breeding of elm bark beetles.

(Prior Code, § 13-128; Code 1994, § 9.16.060; Ord. No. 30, 2012, § 2, 8-7-2012)

Sec. 12-628. Elm bark beetles; breeding places unlawful.

It is unlawful for any owner or occupant of any premises within his control to maintain trees or store wood furnishing breeding places for the elm bark beetles. Such trees or wood shall include the following:

(1) Dead or dying or obviously weakened elm trees, regardless of species or variety;

(2) Dead or dying or obviously weakened branches in otherwise healthy elms;

(3) Stumps of cut trees on which the bark remains; and

(4) Elm wood cut from trees, whether or not they were diseased, that is cut and piled for fireplace wood, whether stored indoors or out.

(Prior Code, § 13-129; Code 1994, § 9.16.070; Ord. No. 30, 2012, § 2, 8-7-2012)

Secs. 12-629--12-640. Reserved.

CHAPTER 11. REFUSE DISPOSAL SITES

Sec. 12-641. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Disposal means the processing of solid or semisolid wastes by sanitary landfill, by incineration, by composting, by grinding or by any other equivalent sanitary method.

Refuse disposal site means any location designated by the city council or the board of county commissioners where any approved final treatment utilization, processing or depository of solid or semi-solid wastes occur.

Sanitary landfill means the active portion of the landfill site where refuse is being dumped, compacted and covered.

(Prior Code, § 13-116; Code 1994, § 9.12.010)

Sec. 12-642. Operation of refuse disposal sites.

Any refuse disposal site operated or designated by the city as a city disposal site shall be in accordance with the state statutes.

(Prior Code, § 13-117; Code 1994, § 9.12.020)

Sec. 12-643. Operation to conform to state standards.

Any refuse disposal facility which has been approved and designated or operated as a city disposal site shall, at all times during which the same is so designated, be operated and maintained according to the minimum operating and maintenance standards as set forth in the state statutes and rules of the state health department.

(Prior Code, § 13-118; Code 1994, § 9.12.030)

Sec. 12-644. Inspection and correction; authorities designated.

The ~~administrative authority~~ city manager or designee, in addition to the authorized agent of the county health department or county commissioners, shall regularly inspect the operation and maintenance of all city refuse disposal sites and supervise all corrective steps that shall be taken by the operators or city crews.

(Prior Code, § 13-119; Code 1994, § 9.12.040)

Sec. 12-645. Rates; fixed and approved.

All disposal rates charged at any city refuse disposal site shall be fixed and approved by the city council.

(Prior Code, § 13-120; Code 1994, § 9.12.050)

Sec. 12-646. Duration of designation.

The designation of the refuse disposal site shall be for an indefinite duration; however, nothing in this chapter shall prohibit the city from entering into a contract with any other municipality or with the county for the joint acquisition, maintenance and operation of solid or semisolid waste disposal sites in accordance with the state statutes.

(Prior Code, § 13-121; Code 1994, § 9.12.060)

Sec. 12-647. Failure to designate city site.

Whenever the city fails to establish, approve or operate a refuse disposal site as a city refuse disposal site, the nearest county-established, county-approved or county-operated refuse disposal site shall also be the city refuse disposal site.

(Prior Code, § 13-122; Code 1994, § 9.12.070)

Secs. 12-648--12-667. Reserved.

Title 13

RESERVED

Title 14

~~PUBLIC PEACE, MORALS AND WELFARE~~

CRIMINAL CONDUCT AND OFFENSES

CHAPTER 1. IN GENERAL

Sec. 14-1. Short title.

This title, as from time to time amended, may be cited as the Greeley Code of Criminal Conduct ~~Violations~~.

(Prior Code, § 15-6; Code 1994, § 10.04.010; Ord. No. 66, 1992, § 3(part), 8-4-1992)

~~**10.04.020. Violations are misdemeanors; synonyms; scope.**~~

~~Any person who does an act prohibited by the provisions of this Title, article II of Title 9 and chapters 6.44, 6.52, 6.56, 6.68, 9.36, 13.08, 13.12, 13.24, 13.28, 13.32, 13.36, 13.40 (except section 13.04.010) and 13.46 is guilty of a misdemeanor and shall be subject to punishment within the limits prescribed by chapter 1.32.~~

~~The terms *offense*, *violation*, *unlawful* and *misdemeanor* as used in this Title, article II of Title 9 and chapters 6.44, 6.52, 6.56, 6.68, 9.36, 13.08, 13.12, 13.24, 13.28, 13.32, 13.36, 13.40 (except section 13.40.010), 13.41, 13.42 and 13.46, are synonymous, and all refer to conduct prohibited, or the failure to do acts required, by this Title, article II of Title 9 and chapters 6.44, 6.52, 6.56, 6.68, 9.36, 13.08, 13.12, 13.24, 13.28, 13.32, 13.36, 13.40 (except section 13.40.010), 13.41, 13.42 and 13.46.~~

~~The provisions of this Title, article II of Title 9 and chapters 6.44, 6.52, 6.56, 6.68, 9.36, 13.08, 13.12, 13.24, 13.28, 13.32, 13.36, 13.40 (except section 13.40.010), 13.41, 13.42 and 13.46 shall apply to any such prohibited or required conduct occurring or required to occur, within the territorial limits of the city and upon real property owned by or under the exclusive control of the city.~~

~~(Code 1994, § 10.04.020; Ord. 66, 1992 §3(part), 8-4-1992; Ord. 22, 1982 §9(part); Prior Code, § 15-1)~~

~~Chapter 10.06 Principles of Criminal Culpability~~

Sec. 14-2. Definitions; culpability requirements; where applicable.

The following words, terms and phrases ~~definitions~~ and principles when used ~~set forth~~ in this title shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning and are applicable to the determination of culpability requirements for violations designated ~~in~~ under chapter 9 of title 1 of this Code.

~~(Code 1994, § 10.06.010; Ord. No. 30, 1988, § 1(part))~~

~~**10.06.020. Act defined.**~~

Act means a bodily movement and includes words and possession of property.

~~(Code 1994, § 10.06.020; Ord. No. 30, 1988, § 1(part))~~

~~**10.08.020. Affirmative defense.**~~

Affirmative defense means that, unless the prosecution's evidence raises the issue involving the alleged defense, the defendant, to raise the issue, must present some credible evidence on that issue. If the issue involved in an affirmative defense is raised, then the guilt of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the violation.

~~(Code 1994, § 10.08.020; Ord. 31, 1988 §§ 1(part), 2(part))~~

Assists means to:

(1) Harbor or conceal the other;

(2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;

(3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;

(4) By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person; or

(5) Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person.

~~10.08.030. Benefit.~~

Benefit means any gain or advantage to the beneficiary, including any gain or advantage to another person pursuant to the desire or consent of the beneficiary.

~~(Code 1994, § 10.08.030; Ord. 31, 1988 §§ 1(part), 2(part))~~

~~10.08.040. Bodily injury.~~

Bodily injury means physical pain, illness or any impairment of physical or mental condition.

~~(Code 1994, § 10.08.040; Ord. 31, 1988 §§ 1(part), 2(part))~~

Building official means a building official in uniform or, if out of uniform, one who has identified himself to another person by exhibiting his credentials or announcing his position as a building official.

~~10.06.030. Conduct defined.~~

Conduct means an act or omission and its accompanying state of mind or, where relevant, a series of acts or commissions.

~~(Code 1994, § 10.06.030; Ord. No. 30, 1988, § 1(part))~~

~~10.06.050. Culpable mental state defined.~~

Culpable mental state means intentionally, with intent, knowingly, willfully, recklessly or with criminal negligence, as those terms are redefined in this chapter.

~~(Code 1994, § 10.06.050; Ord. No. 30, 1988, § 1(part))~~

~~10.08.050. Deadly weapon.~~

Deadly weapon means any of the following which, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury:

(1) A firearm, whether loaded or unloaded;

(2) A knife;

(3) A bludgeon; or

(4) Any other weapon, device, instrument, material or substance, whether animate or inanimate.

~~(Code 1994, § 10.08.050; Ord. 31, 1988 §§ 1(part), 2(part))~~

~~10.08.060. Deface.~~

Deface means to alter the appearance of something by removing, distorting, adding to or covering all or part of the thing.

~~(Code 1994, § 10.08.060; Ord. 31, 1988 §§ 1(part), 2(part))~~

~~10.08.070. Dwelling.~~

Dwelling means a building which is used, intended to be used or usually used by a person for habitation.

~~(Code 1994, § 10.08.070; Ord. 31, 1988 §§ 1(part), 2(part))~~

Escape means a continuing activity commencing with the conception of the design to escape and continuing

until the escapee is returned to custody or the attempt to escape is thwarted or abandoned.

~~10.08.080. Firearm.~~

Firearm means any handgun, automatic revolver, pistol, rifle, shotgun or other instrument or device capable or intended to be capable of discharging bullets, cartridges or other explosive charges.

~~(Code 1994, § 10.08.080; Ord. 31, 1988 §§ 1(part), 2(part))~~

Firefighter means an individual working on behalf of or at the behest of any fire department for the purpose of fighting fires in uniform or, if out of uniform, one who has identified himself to another person either by exhibiting his credentials or announcing his position as a firefighter.

~~10.08.090. Motor vehicle.~~

Motor vehicle includes any self-propelled device by which persons or property may be moved, carried or transported from one place to another by land, water or air, except devices operated on rails, tracks or cables fixed to the ground or supported by pylons, towers or other structures.

~~(Code 1994, § 10.08.090; Ord. 31, 1988 §§ 1(part), 2 (part))~~

~~10.06.080. Omission defined.~~

Omission means a failure to perform an act as to which a duty of performance is imposed by law.

~~(Code 1994, § 10.06.080; Ord. No. 30, 1988, § 1(part))~~

~~10.08.100. Peace officer.~~

Peace officer, unless otherwise limited in this Code, means all the levels set forth in the applicable provisions of C.R.S. title 16, as amended from time to time, or as defined or certified by the peace officers standards and training (P.O.S.T.) board.

~~(Code 1994, § 10.08.100; Ord. 07, 2011 § 1; Ord. 31, 1988 §§ 1(part), 2(part))~~

~~10.08.110. Public place.~~

Public place means a place to which the public or a substantial number of the public has access and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, playgrounds, sidewalks and the common areas of public and private buildings and facilities.

~~(Code 1994, § 10.08.110; Ord. 31, 1988 §§ 1(part), 2(part))~~

Public safety official means any non-sworn employee of the police department whom the chief of police has designated a public safety official, and who is in uniform or, if out of uniform, one who has identified himself to another person either by exhibiting his credentials or announcing his position as a public safety official.

~~10.08.120. Serious bodily injury.~~

Serious bodily injury means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement or a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures or burns of the second or third degree.

~~(Code 1994, § 10.08.120; Ord. 25, 2003 § 1; Ord. 31, 1988 §§ 1(part), 2(part))~~

~~10.08.130. Tamper.~~

Tamper means to interfere with something improperly, to meddle with it or to make unwarranted alterations in its condition.

~~(Code 1994, § 10.08.130; Ord. 31, 1988 §§ 1(part), 2(part))~~

~~10.08.140. Thing of value.~~

Thing of value includes real property, contract rights, choses in action, services, confidential information, medical records information and any rights of use or enjoyment connected therewith.

~~(Code 1994, § 10.08.140; Ord. 31, 1988 §§ 1(part), 2(part))~~

Under color of official authority means when, in the regular course of assigned duties, a person is called upon to make and does make a judgment in good faith, based upon surrounding facts and circumstances that an order or decision, including, but not limited to, a decision to arrest, should be made by him.

~~10.08.150. Utility.~~

Utility means an enterprise which provides gas, sewer, electric, steam, water, transportation or communication services, and includes any carrier, pipeline, transmitter or source, whether publicly or privately owned or operated.

~~(Code 1994, § 10.08.150; Ord. 31, 1988 §§ 1(part), 2(part))~~

~~10.06.100. Voluntary act defined.~~

Voluntary act means an act performed consciously as a result of effort or determination and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it.

(Code 1994, §§ 10.06.020--10.06.030, 10.06.050, 10.06.080, 10.06.100, 10.08.050--10.08.150, 10.12.010; Ord. No. 30, 1988, § 1(part), 8-16-1988; Ord. No. 31, 1988, §§ 1(part), 2(part), 8-16-1988; Ord. No. 50, 2011, § 1, 12-20-2011)

Sec. 14-3. Criminal negligence ~~defined~~.

A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

(Code 1994, § 10.06.040; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-4. ~~Intentionally or with intent defined~~ Intentional or with intent violations.

All violations designated in this Code in which the mental culpability requirement is expressed as intentionally or with intent are declared to be specific intent offenses. A person acts intentionally or with intent when his conscious objective is to cause the specific result prescribed by the Code section designating the violation. It is immaterial to the issue of specific intent whether or not the result actually occurred.

(Code 1994, § 10.06.060; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-5. ~~Knowingly defined~~ Knowing violations.

All violations designated in this Code in which the mental culpability requirement is expressed as knowingly are declared to be general intent violations. A person acts knowingly with respect to conduct or to a circumstance described by the Code section designating the violation when he is aware that his conduct is of such nature or that such circumstance exists. A person acts knowingly with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result.

(Code 1994, § 10.06.070; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-6. ~~Recklessly defined~~ Reckless acts.

A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

(Code 1994, § 10.06.090; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-7. ~~Willfully defined~~ Willful violations.

All violations designated in this Code in which the mental culpability requirement is expressed as willfully are declared to be general intent violations. A person acts willfully with respect to conduct or to a circumstance described by the Code section designating the violation when he is aware that his conduct is of such nature or that such circumstance exists. A person acts willfully with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result.

(Code 1994, § 10.06.110; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-8. Minimum requirement for culpability.

The minimum requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which he is physically capable of performing.

(Code 1994, § 10.06.120; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-9. Strict liability violations.

If the conduct described in section 14-8 is all that is required for commission of a particular violation or if a violation or some material element thereof does not require a culpable mental state on the part of the actor, the violation is one of strict liability.

(Code 1994, § 10.06.130; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-10. Mental culpability.

If a culpable mental state on the part of the actor is required with respect to any material element of a violation, the violation is one of mental culpability.

(Code 1994, § 10.06.140; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-11. Culpable mental state designations.

When the commission of a violation, or some element of a violation, requires a particular culpable mental state, that mental state is ordinarily designated by use of the terms intentionally, with intent, knowingly, willfully, recklessly or criminal negligence, or by the terms with intent to defraud and knowing it to be false describing a specific kind of intent or knowledge.

(Code 1994, § 10.06.150; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-12. Culpable mental state not designated; implied.

Although no culpable mental state is expressly designated in a section designating a violation, a culpable mental state may, nevertheless, be required for the commission of that violation or with respect to some or all of the material elements thereof, if the prescribed conduct necessarily involves such a culpable mental state.

(Code 1994, § 10.06.160; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-13. Criminal negligence included in recklessly, knowingly, or intentionally.

If a section designating a violation provides that criminal negligence suffices to establish an element of a violation, that element also is established if a person acts recklessly, knowingly or intentionally.

(Code 1994, § 10.06.170; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-14. Recklessly included in knowingly or intentionally.

If a section designating a violation provides that acting recklessly suffices to establish an element, that element also is established if a person acts knowingly or intentionally.

(Code 1994, § 10.06.180; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-15. Knowingly included in intentionally.

If a section designating a violation provides that acting knowingly suffices to establish an element, that element also is established if a person acts intentionally.

(Code 1994, § 10.06.190; Ord. No. 30, 1988, § 1(part), 8-16-1988)

Sec. 14-16. Specified culpable mental state applies to every element; exception.

When a section designating a violation prescribes as an element thereof a specified culpable mental state, that mental state is deemed to apply to every element of the offense unless an intent to limit its application clearly appears.

(Code 1994, § 10.06.200; Ord. No. 30, 1988, § 1(part), 8-16-1988)

~~Chapter 10.08 Definitions~~

~~**10.08.010. Definitions; applicability.**~~

~~Unless the definition is specifically limited or the context indicates that it is inapplicable, the definitions set forth in this chapter shall have the meanings ascribed to them with respect to violations designated in:~~

~~__ chapters 6.44, 6.52, 6.56, and 6.68 of Title 6;~~

~~__ All of article II, and chapter 9.36 of article III of Title 9;~~

~~__ Title 10;~~

~~__ chapters 13.08, 13.12, 13.24, 13.28, 13.32, 13.36, 13.40 (except section 13.40.010), 13.41, 13.42 and 13.46 of Title 13.~~

~~(Code 1994, § 10.08.010; Ord. 66, 1992 §4, 8-4-1992; Ord. 31, 1988 §§ 1(part), 2(part))~~

Secs. 14-17--14-35. Reserved.

CHAPTER 2. AFFIRMATIVE DEFENSES

Sec. 14-36. Affirmative defenses; applicability.

The issues of culpability, exemption, justification and responsibility set forth under this chapter are affirmative defenses to violations designated in this Code.

(Code 1994, § 10.10.010; Ord. No. 32, 1988 §§ 1(part), 2(part), 8-16-1988)

Sec. 14-37. Choice of evils.

(a) Unless inconsistent with other provisions of this chapter defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no conduct of the actor and which is of sufficient gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the ordinance defining the violation in issue.

(b) The necessity and justifiability of conduct under subsection (a) of this section shall not rest upon considerations pertaining only to the morality and advisability of the ordinance, either in its general application or with respect to its application to a particular class of cases arising thereunder. When evidence relating to the defense of justification under this section is offered by the defendant, before it is submitted for the consideration of the jury, the court shall first rule as a matter of law whether the claimed facts and circumstances would, if established, constitute a justification.

(Code 1994, § 10.10.020; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-38. Consent.

(a) The consent of the victim to conduct charged to constitute a violation or to the result thereof, is not a defense unless the consent negates an element of the violation or precludes the infliction of the harm or evil sought to be prevented by the law defining the violation.

(b) When conduct is charged to constitute a violation because it causes or threatens bodily injury, consent to that conduct or to the infliction of the injury is a defense only if the bodily injury consented to or threatened by the conduct consented to is not serious or the conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport or the consent establishes a justification under this chapter.

(c) Unless otherwise provided by this Code, assent does not constitute consent if:

(1) It is given by a person who is legally incompetent to authorize the conduct charged to constitute the violation;

(2) It is given by a person who, by reason of immaturity, mental disease, mental defect or intoxication, is manifestly unable and is known or reasonably should be known by the defendant to be unable to make a

reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the violation;

(3) It is given by a person whose consent is sought to be prevented by the law defining the violation; or

(4) It is induced by force, duress or deception.

(Code 1994, § 10.10.030; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-39. Duress.

A person may not be convicted of a violation of this Code based upon conduct in which he engaged because of the use or threatened use of unlawful force upon him or upon another person, which force or threatened use thereof a reasonable person in his situation would have been unable to resist. This defense is not available when a person intentionally or recklessly places himself in a situation in which it is foreseeable that he will be subjected to such force or threatened use thereof.

(Code 1994, § 10.10.040; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-40. Entrapment.

The commission of acts which would otherwise constitute a violation of this Code is not criminal if the defendant engaged in the prescribed conduct because he was induced to do so by a law enforcement official or other person acting under his direction, seeking to obtain evidence for the purpose of prosecution and the methods used to obtain that evidence were such as to create a substantial risk that the acts would be committed by a person who, but for such inducement, would not have conceived of or engaged in conduct of the sort induced. Merely affording a person an opportunity to commit an offense is not entrapment even though representations or inducements calculated to overcome the offender's fear of detection are used.

(Code 1994, § 10.10.050; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-41. Execution of public duty.

(a) Unless inconsistent with other provisions of this chapter defining justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is required or authorized by a provision of law or a judicial decree binding in the state.

(b) The term "provision of law" and "judicial decree" in subsection (a) of this section mean:

(1) Laws defining duties and functions of public servants;

(2) Laws defining duties of private citizens to assist public servants in the performance of certain of their functions;

(3) Laws governing the execution of legal process;

(4) Laws governing the military service and conduct of war;

(5) Judgments and orders of court.

(Code 1994, § 10.10.060; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-42. Ignorance or mistaken belief.

(a) A person is not relieved of criminal liability for conduct because he engaged in that conduct under a mistaken belief of fact, unless:

(1) It negates the existence of a particular mental state essential to commission of the violation;

(2) The ordinance defining the offense or an ordinance relating thereto expressly provides that a factual mistake or the mental state resulting therefrom constitutes a defense or exemption; or

(3) The factual mistake or the mental state resulting therefrom is of a kind that supports a defense of justification as defined in this chapter.

(b) A person is not relieved of criminal liability for conduct because he engages in that conduct under a mistaken belief that it does not, as a matter of law, constitute a violation, unless the conduct is permitted by one or more of the following:

(1) A statute or ordinance binding in the city;

(2) An administrative regulation, order or grant of permission by a body or official authorized and empowered to make such order or grant the permission under the laws of the state and the city;

(3) An official written interpretation of the ordinance or law relating to the violation, made or issued by a public servant, agency or body legally charged or empowered with the responsibility of administering, enforcing or interpreting a statute, ordinance, regulation, order or law. If such interpretation is by judicial decision, it must be binding in the state.

(Code 1994, § 10.10.070; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-43. Impaired mental condition.

A person who has an impaired mental condition, as defined in the applicable provisions of C.R.S. § 16-8.5-101 et seq., as amended from time to time, shall not be prosecuted in the municipal court for a violation of this Code.

(Code 1994, § 10.10.080; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 14-44. Incompetency to proceed.

A person who is incompetent to proceed, as defined in the applicable provisions of C.R.S. § 16-8.5-101 et seq., as amended from time to time, shall not be prosecuted in the municipal court for a violation of this Code.

(Code 1994, § 10.10.090; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 14-45. Insanity.

A person who is insane, as defined in the applicable provisions of C.R.S. § 16-8.5-101 et seq., as amended from time to time, shall not be prosecuted in the municipal court for a violation of this Code.

(Code 1994, § 10.10.100; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 14-46. Insufficient age.

The responsibility of a person for his conduct is the same for persons between the ages of ten and 18 years as it is for persons over 18 years except to the extent that responsibility is modified by the provisions of the Colorado Children's Code, C.R.S. 19-1-101 et seq. No child under ten years of age shall be found guilty of any violation of this Code.

(Code 1994, § 10.10.110; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-47. Intoxication.

(a) Intoxication of the accused is not a defense to a criminal charge, except as provided in subsection (c) of this section, but in any prosecution for an offense, evidence of intoxication of the defendant may be offered by the defendant when it is relevant to negate the existence of a specific intent if such intent is an element of the crime charged.

(b) Intoxication does not, in itself, constitute mental disease or defect within the meaning of sections 14-43, 14-44, and 14-45.

(c) A person is not criminally responsible for his conduct if, by reason of intoxication that is not self-induced at the time he acts, he lacks capacity to conform his conduct to the requirements of the law.

(d) The term "intoxication," as used in this section, means a disturbance of mental or physical capacities resulting from the introduction of any substance into the body.

(e) The term "self-induced intoxication" means intoxication caused by substances which the defendant knows or ought to know have the tendency to cause intoxication and which he knowingly introduced or allowed to be introduced into his body, unless they were introduced pursuant to medical advice or under circumstances that would afford a defense to a charge of a crime.

(Code 1994, § 10.10.120; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-48. Physical force against an intruder.

(a) Notwithstanding the provisions of section 14-49, any occupant of a dwelling is justified in using any degree of physical force, including deadly physical force, against another person when that other person has made an unlawful entry into the dwelling and when the occupant has a reasonable belief that such other person has committed a crime in the dwelling in addition to the uninvited entry or is committing or intends to commit a crime against a person or property in addition to the uninvited entry, and when the occupant reasonably believes that such other person might use any physical force, no matter how slight, against any occupant.

(b) Any occupant of a dwelling using physical force, including deadly physical force, in accordance with the provisions of subsection (a) of this section, shall be immune from criminal prosecution for the use of such force.

(Code 1994, § 10.10.130; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-49. Physical force in defense of a person.

(a) Except as provided in subsections (b) and (c) of this section, a person is justified in using physical force upon another person in order to defend himself, herself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.

(b) Deadly physical force may be used only if a person reasonably believes a lesser degree is inadequate and:

(1) The actor has reasonable ground to believe and does believe that he, she or another person is in imminent danger of being killed or of receiving great bodily injury;

(2) The other person is using or reasonably appears about to use physical force against an occupant of a dwelling or business establishment while committing or attempting to commit burglary as defined in the applicable provisions of C.R.S. title 18, as amended from time to time; or

(3) The other person is committing or reasonably appears about to commit kidnapping, robbery; sexual assault; or assault as defined in the applicable provisions of C.R.S. title 18, as amended from time to time.

(c) Notwithstanding the provisions of subsection (a) of this section, a person is not justified in using physical force if:

(1) With intent to cause bodily injury or death to another person, he provokes the use of unlawful physical force by that other person;

(2) He is the initial aggressor, except that his use of physical force upon another person under the circumstances is justifiable if he withdraws from the encounter and effectively communicates to the other person his intent to do so, but the latter nevertheless continues or threatens the use of unlawful physical force; or

(3) The physical force involved is the product of a combat by agreement not specifically authorized by law.

(Code 1994, § 10.10.140; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 14-50. Physical force in defense of premises.

A person in possession or control of any building, realty or other premises, or a person who is licensed or privileged to be thereon, is justified in using reasonable and appropriate physical force upon another person when and to the extent that it is reasonably necessary to prevent or terminate what he reasonably believes to be the commission or attempted commission of an unlawful trespass by the other person in or upon the building, realty or premises. However, he may use deadly force only in defense of himself, herself or another as described in section 14-49, or when he reasonably believes it necessary to prevent what he reasonably believes to be an attempt by the trespasser to commit first degree arson.

(Code 1994, § 10.10.150; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-51. Physical force in defense of property.

A person is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary to prevent what he reasonably believes to be an attempt by the other person to commit theft, criminal mischief or criminal tampering involving property, but he may use deadly physical force under these circumstances only in defense of himself, herself or another as described in section 14-49.

(Code 1994, § 10.10.160; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-52. Physical force in making an arrest or in preventing an escape.

(a) Except as provided in subsection (b) of this section, a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

(1) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or

(2) To defend himself, herself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

(b) A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (a) of this section only when he reasonably believes that it is necessary:

(1) To defend himself, herself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

(2) To effect an arrest or to prevent the escape from custody of a person whom he reasonably believes:

a. Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon;

b. Is attempting to escape by the use of a deadly weapon; or

c. Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

(c) Nothing in subsection (b)(2) of this section shall be deemed to constitute justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain in custody.

(d) For the purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which, if true, would in law constitute an offense. If the believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections (a) and (b) of this section unless the warrant is invalid and is known by the officer to be invalid.

(e) Except as provided in subsection (f) of this section, a person who has been directed by a peace officer to assist him to effect an arrest or to prevent an escape from custody is justified in using reasonable and appropriate physical force when and to the extent that he reasonably believes that force to be necessary to carry out the peace officer's direction, unless he knows that the arrest or prospective arrest is not authorized.

(f) A person who has been directed to assist a peace officer under circumstances specified in subsection (e) of this section may use deadly physical force to effect an arrest or to prevent an escape only when:

(1) He reasonably believes that force to be necessary to defend himself, herself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

(2) He is directed or authorized by the peace officer to use deadly physical force and does not know, if that happens to be the case, that the peace officer himself is not authorized to use deadly physical force under the circumstances.

(g) A private person acting on his own account is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary to effect an arrest or to prevent

the escape from custody of an arrested person who has committed an offense in his presence; but he is justified in using deadly physical force for the purpose only when he reasonably believes it necessary to defend himself, herself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

(h) A guard or peace officer employed in a detention facility is justified:

(1) In using deadly physical force when he reasonably believes it necessary to prevent the escape of a prisoner convicted of, charged with or held for a felony, or confined under the maximum security rules of any detention facility as such facility is defined in subsection (i) of this section; or

(2) In using reasonable and appropriate physical force, but not deadly physical force, in all other circumstances when and to the extent that he reasonably believes it necessary to prevent the escape of a prisoner from a detention facility.

(i) The term "detention facility," as used in subsection (h) of this section, means any place maintained for the confinement, pursuant to law, of persons charged with or convicted of an offense, held pursuant to the Colorado Children's Code, held for extradition or otherwise confined pursuant to an order of a court.

(Code 1994, § 10.10.170; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988; Ord. No. 56, 1994, § 1, 12-20-1994)

Sec. 14-53. Special relationships.

The use of physical force upon another person which would otherwise constitute a violation is justifiable and not criminal under any of the following circumstances:

(1) A parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person, or a teacher or other person entrusted with the care and supervision of a minor, may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent it is reasonably necessary and appropriate to maintain discipline or promote the welfare of the minor or incompetent person.

(2) A superintendent or other authorized official of a jail, prison or correctional institution may, in order to maintain order and discipline, use reasonable and appropriate physical force when and to the extent that he reasonably believes it necessary to maintain order and discipline, but he may use deadly physical force only when he reasonably believes it necessary to prevent death or serious bodily injury.

(3) A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under his direction, may use reasonable and appropriate physical force when and to the extent that it is necessary to maintain order and discipline, but he may use deadly physical force only when it is reasonably necessary to prevent death or serious bodily injury.

(4) A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious bodily injury upon himself may use reasonable and appropriate physical force upon that person to the extent that it is reasonably necessary to thwart the result.

(5) A duly licensed physician, or a person acting under his direction, may use reasonable and appropriate physical force for the purpose of administering a recognized form of treatment which he reasonably believes to be adapted to promoting the physical or mental health of the patient if:

a. The treatment is administered with the consent of the patient or if the patient is a minor or an incompetent person, with the consent of his parent, guardian or other person entrusted with his care and supervision; or

b. The treatment is administered in an emergency when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

(Code 1994, § 10.10.180; Ord. No. 32, 1988, §§ 1(part), 2(part), 8-16-1988)

Secs. 14-54--14-78. Reserved.

CHAPTER 3. OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Sec. 14-79. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Peace officer means a peace officer in uniform or, if out of uniform, one who has identified himself to another person either by exhibiting his credentials or announcing his position as a peace officer.

(Code 1994, § 10.12.010; Ord. No. 50, 2011, § 1, 12-20-2011)

~~**10.12.015. Reserved.**~~

Sec. 14-80. Aiding escape; violation designated.

A person commits the violation of aiding escape if he knowingly aids, abets or assists another person to escape or attempt to escape from custody or confinement while such other person is held for, charged with or convicted of a violation of any ordinance or code of the city.

(Prior Code, § 15-20(a); Code 1994, § 10.12.020; Ord. No. 33, 1988, §§ 1(part), 2(part), 8-16-1998; Ord. No. 50, 2011 § 1, 12-20-2011)

Sec. 14-81. Escape.

A person commits the violation of escape if he knowingly escapes or attempts to escape from custody or confinement while held for, charged with or convicted of a violation of any ordinance or code of the city.

(Prior Code, § 15-19; Code 1994, § 10.12.030; Ord. No. 33, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-82. Impersonating a peace officer.

A person who falsely pretends to be a peace officer and performs an act in that pretended capacity commits the violation of impersonating a peace officer.

(Prior Code, § 15-18; Code 1994, § 10.12.040)

Sec. 14-83. Obstructing a peace officer, firefighter or other public safety official; violation designated.

A person commits the violation of obstructing a peace officer, firefighter or other public safety official when, by using or threatening to use violence, force or physical interference or obstacle, he knowingly obstructs, impairs or hinders the enforcement of the penal law or the preservation of the peace by a peace officer or other public safety official acting under color of his official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter, acting under color of his official authority.

(Prior Code, § 15-16(a); Code 1994, § 10.12.050; Ord. No. 33, 1988, § 1(part), 2(part), 8-16-1988; Ord. No. 50, 2011, § 1, 12-20-2011)

Sec. 14-84. Obstructing a peace officer, firefighter or other public safety official; defense.

It is no defense to a prosecution under section 14-83 that the peace officer, firefighter or other official public safety official was acting in an illegal manner, if he was acting under color of his official authority.

(Prior Code, § 15-16(b); Code 1994, § 10.12.060; Ord. No. 33, 1988, §§ 1(part), 2(part), 8-16-1988; Ord. No. 50, 2011, § 1, 12-20-2011)

~~**10.12.070. Reserved.**~~

~~**10.12.075. Reserved.**~~

Sec. 14-85. Refusing to aid a peace officer.

A person, 18 years of age or older, commits the violation of refusing to aid a peace officer when, upon command by a person known to him to be a peace officer, he unreasonably refuses or fails to aid such peace officer in effecting or securing an arrest or preventing the commission by another of any offense.

(Prior Code, § 15-17; Code 1994, § 10.12.080)

Sec. 14-86. Obstructing government operations.

(a) No person shall knowingly obstruct, impair or hinder the performance of a governmental function by a public servant by using or threatening to use violence, force or physical interference or obstacle.

(b) It is an affirmative defense to violation of this section that:

(1) The obstruction, impairment or hindrance was of unlawful action by a public servant;

(2) The obstruction, impairment or hindrance was of the making of an arrest; or

(3) The obstruction, impairment or hindrance was by lawful activities in connection with a labor dispute with the government.

(Code 1994, § 10.12.085; Ord. No. 50, 2011, § 1, 12-20-2011)

Sec. 14-87. Resisting arrest; violation designated.

A person commits the violation of resisting arrest if he knowingly prevents or attempts to prevent a peace officer, acting under color of his official authority, from effecting an arrest of the actor or another by:

(1) Using or threatening to use physical force or violence against the peace officer or another; or

(2) Using any other means which creates a substantial risk of causing bodily injury to the peace officer or another.

(Prior Code, § 15-15(a); Code 1994, § 10.12.090; Ord. No. 33, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-88. Resisting arrest; defense.

It is no defense to a prosecution under section 14-87 that the peace officer was attempting to make an arrest which in fact was unlawful, if he was acting under color of his official authority and in attempting to make the arrest he was not resorting to unreasonable or excessive force giving rise to the right of self-defense.

(Prior Code, § 15-15(b); Code 1994, § 10.12.100; Ord. No. 33, 1988, §§ 1(part), 2(part), 8-16-1988)

~~**10.12.110. Reserved.**~~

~~**10.12.120. Reserved.**~~

Sec. 14-89. Failure to obey a lawful order; violation designated.

A person commits the offense of failing to obey a lawful order if he knowingly disobeys the lawful or reasonable order of any peace officer, firefighter or building official given incident to the discharge of the official duties of such peace officer, firefighter or building official when such peace officer, firefighter or building official is acting under the color of his official authority.

(Code 1994, § 10.12.130; Ord. No. 25, 1990, § 1(part), 5-1-1990; Ord. No. 7, 2010, § 1, 4-6-2010)

Sec. 14-90. Failure to obey a lawful order; defenses.

It is no defense to prosecution under section 14-89 that the peace officer, firefighter or building official was acting in an illegal manner, if he was acting under color of his official authority.

(Code 1994, § 10.12.140; Ord. No. 25, 1990, § 1(part), 5-1-1990; Ord. No. 7, 2010, § 1, 4-6-2010; Ord. No. 50, 2011, § 1, 12-20-2011)

~~**10.12.150. Reserved.**~~

~~**10.12.160. Reserved.**~~

Sec. 14-91. False reporting to authorities.

(a) A person commits false reporting to authorities, if:

(1) He knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service or any other government agency which deals with

emergencies involving danger to life or property;

(2) He makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he knows that it did not occur;

(3) He makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when he knows that he has no such information or knows that the information is false; or

(4) He knowingly provides false identifying information to law enforcement authorities.

(b) For the purposes of this section, the term "identifying information" includes a person's name, address, birth date, social security number, driver's license or state identification number.

(Code 1994, § 10.12.170; Ord. No. 79, 1997, § 1, 12-16-1997)

Sec. 14-92. Violation of bail bond conditions.

(a) A person who is released on bail bond of whatever kind and either before, during or after release is accused by complaint of a violation of any of the ordinances of the city arising from the conduct for which he was arrested, commits a misdemeanor offense if he knowingly fails to appear for trial or other proceedings in the case in which the bail bond was filed or if he knowingly violates the conditions of the bail bond.

(b) A person convicted under this section shall not be eligible for probation or a suspended sentence. Any such sentence shall be served consecutively with any sentence for the offense on which the person is on bail.

(Code 1994, § 10.12.180; Ord. No. 09, 2011, § 1, 2-15-2011)

Secs. 14-93--14-112. Reserved.

CHAPTER 4. OFFENSES AGAINST THE PERSON

Sec. 14-113. Assault.

A person commits the violation of assault if he knowingly or recklessly causes bodily injury to another person or, with criminal negligence, he causes bodily injury to another person by means of a deadly weapon.

(Prior Code, § 15-7; Code 1994, § 10.16.010; Ord. No. 34, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-114. False imprisonment.

A person commits the violation of false imprisonment if he knowingly confines or detains another without the other's consent and without proper legal authority. This section shall not apply to a peace officer acting in good faith within the scope of his duties.

(Prior Code, § 15-9; Code 1994, § 10.16.020; Ord. No. 68, 1980, § 2, 8-5-1980; Ord. No. 34, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-115. Menacing.

A person commits the violation of menacing if, by any threat or physical action, he knowingly places or attempts to place another person in fear of imminent serious bodily injury.

(Prior Code, § 15-8; Code 1994, § 10.16.030; Ord. No. 34, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-116. Reckless endangerment.

A person commits the violation of reckless endangerment if he recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person.

(Prior Code, § 15-10; Code 1994, § 10.16.040)

Sec. 14-117. Projecting missiles at vehicles.

A person commits the violation of projecting missiles at vehicles if he knowingly projects any missile at or against any vehicle or equipment designated for the transportation of persons or property.

(Prior Code, § 15-37; Code 1994, § 10.16.050; Ord. No. 34, 1988, §§ 1(part), 2(part), 8-16-1988)

Secs. 14-118--14-147. Reserved.

CHAPTER 5. OFFENSES AGAINST PUBLIC DECENCY

Sec. 14-148. Public indecency.

(a) Definition. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Intimate parts means the external genitalia, the perineum, the anus, the buttocks, the pubic area and/or the breast of any person.

(b) Any person who performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits the violation of public indecency:

(1) An act of sexual intercourse;

(2) A lewd exposure of the intimate parts of the body, not including the genitals, done with intent to arouse or satisfy the sexual desire of any person; or

(3) A lewd fondling or caress of the body of another person.

(Prior Code, § 15-33; Code 1994, § 10.20.010; Ord. No. 68, 1980, § 4, 8-5-1980; Ord. No. 35, 1988, §§ 1(part), 2(part), 8-16-1988; Ord. No. 50, 2011, § 1, 12-20-2011)

Sec. 14-149. Indecent exposure.

A person commits the violation of indecent exposure if he knowingly exposes his genitals to any person who is 14 years of age or older, under circumstances in which such conduct is likely to cause affront or alarm to the other person.

(Code 1994, § 10.20.020; Ord. No. 35, 1988, §§ 1(part), 2(part), 8-16-1988)

~~**10.20.030. Reserved.**~~

Sec. 14-150. Urinating in public.

Any person who urinates in any street, alley, sidewalk or other public place or on private property within the public view commits a violation of this section.

(Code 1994, § 10.20.040; Ord. No. 35, 1988, §§ 1(part), 2(part), 8-16-1988)

Secs. 14-151--14-168. Reserved.

CHAPTER 6. OFFENSES AGAINST PUBLIC PEACE

Sec. 14-169. Disorderly conduct.

(a) A person commits the violation of disorderly conduct if he intentionally, knowingly or recklessly:

(1) Makes a coarse and obviously offensive utterance, gesture or display that tends to incite an immediate breach of peace;

(2) Abuses or threatens a person in a public place in an obviously offensive manner;

(3) Makes unreasonable noise in a public place or near a private residence that he has no right to occupy;

(4) Fights with another in a public place except in an amateur or professional contest of athletic skill; or

(5) Not being a police officer, discharges a firearm in a public place in a manner calculated to alarm.

(b) It is an affirmative defense to prosecution under subsection (a)(2) of this section that the actor had significant provocation for his abusive or threatening conduct.

(Prior Code, § 15-26; Code 1994, § 10.24.010; Ord. No. 68, 1980, § 6, 8-5-1980; Ord. No. 36, 1988, § 1, 8-16-1988)

Sec. 14-170. Disrupting lawful assembly.

A person commits a violation of disrupting lawful assembly if, intending to prevent or disrupt any lawful

meeting, procession or gathering, he significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means.

(Prior Code, § 15-32; Code 1994, §§ 10.24.010, 10.24.020)

Sec. 14-171. Harassment; violation designated.

A person commits the violation of harassment if, with intent to harass, annoy or alarm another person, he:

(1) Strikes, shoves, kicks or otherwise touches a person or subjects him to physical contact;

(2) In a public place, directs obscene language or makes an obscene gesture to or at another person;

(3) Follows a person in or about a public place;

(4) Initiates communication with a person, anonymously or otherwise by telephone, in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone which is obscene;

(5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;

(6) Makes repeated communications at inconvenient hours or in offensively coarse language; or

(7) Repeatedly insults, taunts or challenges another in a manner likely to provoke a violent or disorderly response.

(Code 1994, § 10.24.024; Ord. No. 36, 1988, §§ 2(part), 3(part), 8-16-1988)

Sec. 14-172. Harassment; obscene defined.

As used in section 14-171, the term "obscene" means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(Code 1994, § 10.24.025; Ord. No. 36, 1988, §§ 2(part), 3(part), 8-16-1988)

Sec. 14-173. Telephone communication; place of violation.

Any act prohibited by section 14-171(4) may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.

(Code 1994, § 10.24.026; Ord. No. 36, 1988, §§ 2(part), 3(part), 8-16-1988)

~~**Sec. 14-174. Loiter defined.**~~

~~(Code 1994, § 10.24.030; Ord. No. 27, 2010, § 1; Ord. No. 68, 1980, § 8(part); Prior Code, § 15-34(a))~~

Sec. 14-174. Violation for loitering designated.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Loiter means to be dilatory; to stand idly around; to linger, delay or wander about; or to remain, abide or tarry in a public place.

(b) A person commits a violation of this section if he:

(1) Loiters and unlawfully gambles with cards or dice;

(2) Loiters and engages or solicits another person to engage in prostitution;

(3) Not having any reason or relationship involving custody of, or responsibility for, a pupil or any other specific legitimate reason for being there, and not having written permission from the school administrator, loiters in or about a school building or grounds, and initiates conversations with, touches, fondles or otherwise interferes with free movement of any pupil of said school; or

(4) Loiters with one or more persons and unlawfully uses, possesses, sells or attempts to sell a narcotic or dangerous drug.

(c) In addition to the other provisions of this subsection, a person who is a sex offender required to register, as provided by the applicable provisions of C.R.S. title 16, as amended from time to time, commits an offense if he loiters at or within 750 feet of any city-recognized school, park, playground, recreational center, swimming pool or splash park without having any legitimate reason for being there.

(d) It shall be an affirmative defense that the defendant's acts were lawful and he was exercising his rights of lawful assembly as a part of peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise.

(e) Violations of this section are misdemeanor infractions and shall be punishable as provided in chapter 9 of title 1 of this Code.

(Prior Code, § 15-34(a), (b); Code 1994, §§ 10.24.030, 10.24.040, 10.24.041; Ord. No. 68, 1980, § 8(part), 8-5-1980; Ord. No. 27, 2006, § 1, 6-6-2006; Ord. No. 02, 2009, § 1, 2-3-2009; Ord. No. 27, 2010, § 1, 7-20-2010; Ord. No. 07, 2011, § 1, 2-1-2011)

~~**10.24.041. Penalties.**~~

~~(Code 1994, § 10.24.041; Ord. No. 27, 2010, § 1; Ord. No. 02, 2009, § 1, 2-3-2009)~~

~~**Sec. 14-176. Reserved.**~~

~~**Editor's note**—Ord. 25, 2016 , § 1(Exh. A), adopted Oct 18, 2016, repealed § 10.24.045, which pertained to panhandling and derived from Ord. 23, 2015 , § 1(Exh. A), adopted July 7, 2015; Ord. 40, 2012 § 1; Ord. No. 27, 2010, § 1; and Ord. No. 27, 2006, § 1.~~

Sec. 14-175. Lawful acts in lawful assemblies excepted.

Lawful acts in the course of lawful assembly as a part of peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise, are not in violation of section 14-174.

(Prior Code, § 15-34(c); Code 1994, § 10.24.050; Ord. No. 68, 1980, § 8(part), 8-5-1980)

~~**Sec. 14-178. Reserved.**~~

~~**Editor's note**—Ord. 23, 2015 , § 2(Exh. A), adopted July 7, 2015, repealed § 10.24.055, which pertained to solicitation and panhandling in public rights-of-way and derived from Ord. 40, 2012 §2.~~

Sec. 14-176. Public intoxication.

A person commits the violation of public intoxication if he appears in any public place manifestly under the influence of narcotics or other drugs, excluding alcohol, not administered pursuant to medical advice, to the degree that he may endanger himself, herself or other persons or property.

(Prior Code, § 15-25; Code 1994, § 10.24.060)

Sec. 14-177. Possession and consumption of alcohol by minors.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Establishment means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group or residence, and any real property, including buildings and improvements, connected therewith and shall also include any members, employees and occupants associated therewith.

Ethyl alcohol means any substance which is or contains ethyl alcohol (C_2H_3OH).

Possession of ethyl alcohol means that a person has or holds any amount of ethyl alcohol anywhere on his person, or that person owns or has custody of ethyl alcohol or has ethyl alcohol within his immediate presence and control.

Private property means any dwelling and its curtilage which is being used by a natural person or natural persons for habitation and which is not open to the public and privately owned real property which is not open to the public. The term "private property" shall not include:

(1) Any establishment which has or is required to have a liquor license pursuant to state statutes or this Code for the sale and/or dispensing of alcoholic beverages;

(2) Any establishment which sells ethyl alcohol or upon which premises ethyl alcohol is sold; or

(3) Any establishment which leases, rents or provides accommodations to members of the public generally.

(b) Any person aged 18 to 20 years, inclusive, who possesses or consumes ethyl alcohol anywhere in the city commits the crime of illegal possession or consumption of ethyl alcohol by an underage person. Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

(c) Illegal possession or consumption of ethyl alcohol by an underage person shall be punished pursuant to section 1-229. The court may further order that the defendant submit to and complete an alcohol evaluation or assessment, an alcohol education program or an alcohol treatment program, at such defendant's own expense.

(d) It shall be an affirmative defense to a violation of this section that the ethyl alcohol was possessed or consumed under the following circumstances:

(1) While the defendant was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the ethyl alcohol was possessed or consumed with the consent of the defendant's parent or legal guardian who was present during such possession or consumption; or

(2) When the existence of ethyl alcohol in a person's body was due solely to the ingestion of a confectionery which contained ethyl alcohol within the limits prescribed by the applicable provisions of C.R.S. title 25, as amended from time to time, or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes, or solely from the ingestion of a beverage which contained less than one-half of 0.5 percent of ethyl alcohol by weight.

(e) The possession or consumption of ethyl alcohol shall not constitute a violation of this section if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.

(f) Prima facie evidence of a violation of this section shall consist of:

(1) Evidence that the defendant was aged 18, 19 or 20 years and possessed or consumed ethyl alcohol within the city;

(2) Evidence that the defendant was aged 18, 19 or 20 years and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment; or

(3) Exhibition of the commonly associated signs and symptoms that a person has consumed an alcoholic beverage or other indication that the person who is aged 18, 19 or 20 years of age has alcohol in his gastrointestinal tract or blood stream shall be deemed presumptive evidence that the person is in possession of an alcoholic beverage.

(g) During any trial for a violation of this section, any bottle, can or any other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence and the information contained on any label on such bottle, can or other container shall be admissible into evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can or other container as beer, ale, malt beverage, fermented malt beverage, malt liquor, wine, champagne, whiskey, gin, vodka, tequila, schnapps, brandy, cognac, liqueur, cordial, alcohol, liquor or any other product generally recognized as being an alcoholic beverage shall constitute prima facie evidence that the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol.

(h) Nothing in this section shall be construed to limit or preclude prosecution for any offense pursuant to C.R.S. title 12, art. 46, 47 or 48 except as provided in such articles.

(i) The qualitative result of an alcohol test or tests shall be admissible at the trial of any person charged with

a violation of this section upon a showing that the device or devices used to conduct such test or tests have been approved as accurate in detecting alcohol by the executive director of the state department of health.

(j) Official records of the state department of health relating to the certification of breath test instruments, certification of operators and operator instructors of breath test instruments, certification of standard solutions and certification of laboratories shall be official records of the state. Copies of such records, attested by the executive director of the department of health or his deputy and accompanied by a certificate bearing the official seal for said department, which state that the executive director of the department has custody of such records, shall be admissible in the municipal court and shall constitute prima facie evidence of the information contained in such records. The official seal of the department described in this subsection may consist of a rubber stamp producing a facsimile of the seal stamped upon the document.

(k) In any proceeding in the municipal court concerning a charge under this section, the court shall take judicial notice of methods of testing a person's blood, breath, saliva or urine for the presence of alcohol and of the design and operation of devices certified by the department of health for testing a person's blood, breath, saliva or urine for the presence of alcohol. This subsection shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this subsection shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

(Code 1994, § 10.24.061; Ord. No. 65, 1991, § 1, 12-17-1991; Ord. No. 22, 1993, § 1, 5-18-1993; Ord. No. 3, 1995, § 1(part), 1-3-1995; Ord. No. 07, 2011, § 1, 2-1-2011; Ord. No. 09, 2011, § 1, 2-15-2011)

Sec. 14-178. Purchase or attempt to purchase alcoholic beverages by minors.

(a) It is a violation of this section if any person aged 18, 19 or 20 years of age purchases any alcoholic beverage containing more than 0.5 percent of ethyl alcohol by weight; or attempts to purchase any alcoholic beverage containing more than 0.5 percent of ethyl alcohol by weight.

(b) Prima facie evidence of violation of this section shall consist of:

(1) That the defendant purchased or attempted to purchase an alcoholic beverage containing more than 0.5 percent of ethyl alcohol by weight; and

(2) Evidence that the defendant was aged 18, 19 or 20 years of age at the time of the alleged offense.

(c) During any trial for a violation of this section, any bottle, can or any other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence and the information contained on any label on such bottle, can or other container shall be admissible into evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can or other container as beer, ale, malt beverage, fermented malt beverage, malt liquor, wine, champagne, whiskey, gin, vodka, tequila, schnapps, brandy, cognac, liqueur, cordial, alcohol, liquor or any other product generally recognized as being an alcoholic beverage shall constitute prima facie evidence that the contents of the bottle, can or other container was composed in whole or in part of ethyl alcohol.

(d) Violations of this section shall be punished in accordance with chapter 9 of title 1 of this Code and the punishment and sentence set out in section 14-177.

(Code 1994, § 10.24.062; Ord. No. 23, 1993, § 1, 5-18-1993)

Sec. 14-179. Illegal sales of alcoholic beverages.

(a) A person commits a violation of this section if he sells, serves, distributes or otherwise transfers an alcoholic beverage:

(1) To any person who is:

a. Under the age of 21 years;

b. Is visibly intoxicated; or

c. Is a habitual drunkard.

(2) Upon premises which are properly licensed pursuant to C.R.S. art. 46 or 47, at any time which is not authorized by state statutes.

(3) For money or any other thing or service of value without a valid liquor license issued pursuant to C.R.S. art. 46 or 47.

(b) It shall be an affirmative defense to a violation of subsection (a)(1)a of this section that the defendant was the parent or legal guardian of the person to whom the alcoholic beverage was sold, served, distributed or otherwise transferred.

(Code 1994, § 10.24.063; Ord. No. 3, 1995, § 1(part), 1-3-1995)

Sec. 14-180. Consumption prohibited.

A person commits a violation of this section if he is a retail licensee pursuant to C.R.S. art. 46 or 47, and he permits the consumption of any alcoholic beverage or fermented malt beverage on his licensed premises at any time during such hours as the sale of such beverage is prohibited by law.

(Code 1994, § 10.24.064; Ord. No. 3, 1995, § 1(part), 1-3-1995)

Sec. 14-181. Conduct of licensed establishment.

A person commits a violation of this section if he possesses a valid liquor or fermented malt beverage license pursuant to C.R.S. art. 46 or 47, or is an employee or agent of such license holder if he fails to conduct the licensed premises in a decent, orderly and respectable manner or permits the serving or loitering of an apparently intoxicated person or habitual drunkard on the licensed premises, or permits profanity offensive to the senses of the average citizen or to the residents of the neighborhood in which the licensed premises are located.

(Code 1994, § 10.24.066; Ord. No. 3, 1995, § 1(part), 1-3-1995)

Sec. 14-182. Riot offenses; riot defined.

For the purposes of sections 14-183, 14-184 and 14-185, the term "riot" means a public disturbance involving an assemblage of five or more persons which, by tumultuous and violent conduct, creates grave danger of damage or injury to property or persons or substantially obstructs the performance of any governmental function.

(Prior Code, § 15-28(b); Code 1994, § 10.24.070)

Sec. 14-183. Disobeying public safety orders; news reporters exempted.

A person commits a violation of this section if, during a riot or when one is impending, he intentionally disobeys a reasonable public safety order to move, disperse or refrain from specified activities in the immediate vicinity of the riot. A public safety order is an order designed to prevent or control disorder or promote the safety of persons or property, issued by an authorized member of the police, fire, military or other forces concerned with the riot. No such order shall apply to a news reporter or other person observing or recording the events on behalf of the public press or other news media unless he is physically obstructing efforts by such forces to cope with the riot or impending riot.

(Prior Code, § 15-30; Code 1994, § 10.24.080)

Sec. 14-184. Engaging in a riot.

A person commits a violation of this section if he engages in a riot.

(Prior Code, § 15-28(a); Code 1994, § 10.24.090)

Sec. 14-185. Inciting riot.

A person commits the violation of inciting riot if he:

(1) Incites or urges a group of five or more persons to engage in a current or impending riot; or

(2) Gives commands, instructions or signals to a group of five or more persons in furtherance of a riot.

(Prior Code, § 15-29; Code 1994, § 10.24.100)

Sec. 14-186. Signs against solicitation or peddling to be obeyed.

No peddler, hawker, itinerant merchant, transient vendor, solicitor or door-to-door salesman of goods, wares or merchandise shall go in or upon any private residences or private offices in the city for the purpose of soliciting orders for the sale of goods, wares or merchandise or for the purpose of disposing of or peddling the same, without first having been invited or requested to do so by the owner or occupant thereof, provided that such owner or occupant thereof has posted or displayed, at or near the entrance thereof, a sign indicating that such persons are not welcome, invited or allowed, such as no peddlers or agents, no peddlers, no solicitors, or any other sign of similar import or meaning.

(Code 1994, § 10.24.110; Ord. No. 46, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-187. One invitation not to imply another.

No invitation or request to visit or go in or upon any private residences or private offices in the city, given or extended by the owner or occupants to any such persons, is an implied invitation or request to gain a visit or go in or upon any private residences or private offices referred to in section 14-186.

(Code 1994, § 10.24.120; Ord. No. 46, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-188. Violation unlawful.

Any practice in violation of sections 14-186 or 14-187 is a misdemeanor infraction and shall be punished as provided in chapter 9 of title 1 of this Code.

(Code 1994, § 10.24.130; Ord. No. 46, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-189. Exempt persons.

Nothing contained in sections 14-186, or 14-187 shall apply to persons exempt under the laws of the state.

(Code 1994, § 10.24.140; Ord. No. 46, 2016, § 1(exh. A), 12-20-2016)

Secs. 14-190--14-222. Reserved.

CHAPTER 7. YOUTH CURFEW AND PARENTAL-GUARDIAN RESPONSIBILITIES

Sec. 14-223. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately owned place of business operated for a profit to which the public is invited but is not limited to, any place of amusement or entertainment.

Guardian means:

(1) A person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

Minor means any person under 18 years of age.

Parent means a person who is:

(1) A natural parent, adoptive parent or stepparent of another person; or

(2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of hospitals, apartment houses, office buildings, transport facilities and shops.

Remain means to:

(1) Linger or stay; or

(2) Fail to leave premises when requested to do so by a police officer, owner, operator or other person in control of the premises.

(Code 1994, § 10.25.010; Ord. No. 22, 2008, § 1, 7-1-2008)

Sec. 14-224. Curfew hours for minors; exceptions; affirmative defenses.

(a) It is unlawful for any minor who has not reached his 18th birthday to be or remain upon any streets, alleys or other public places within the city, or to remain in any establishment open to the public generally within the city, between the hours of 11:00 p.m. and 5:00 a.m. Sunday through Thursday, and 12:00 a.m. and 5:00 a.m. on Friday and Saturday, except:

(1) When accompanied by a parent, guardian or other person having legal custody of such minor.

(2) For lawful employment or for one-half hour before or after such employment when commuting directly to or from such employment without any detour or stop.

(3) When accompanied by a person who has reached his 18th birthday and who has in his possession the written and signed consent of the parent, guardian or other person having legal custody of the minor.

(4) When traveling directly to or from an officially sanctioned school, community or civic function or activity without any detour or stop, when the minor had the consent to attend such activity from a parent or guardian who had the legal care or custody of such juvenile.

(5) When engaged in an activity necessary to assist in an emergency involving a person's illness, injury or death.

(6) When traveling directly to or from the minor's home for a religious activity or purpose, without any detour or stop, when the minor had the consent to attend such activity from a parent or guardian who had the legal care or custody of such juvenile.

(b) It shall be an affirmative defense to charges under this section that the minor:

(1) Was involved in an emergency;

(2) Was on the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence;

(3) Has been legally emancipated by the courts; or

(4) Is currently enrolled as a college student.

(c) At any trial for a violation of this section at which the defendant raises an affirmative defense set forth in subsection (b) of this section, the defendant shall have the burden of proving every element of the affirmative defense.

(d) Violations designated.

(1) The first violation of this chapter shall be deemed a misdemeanor infraction and shall be punished pursuant to chapter 9 of title 1 of this Code.

(2) Any second or subsequent violation of this chapter within 365 days of the first violation shall be deemed a misdemeanor offense and shall be punished pursuant to chapter 9 of title 1 of this Code.

(Code 1994, § 10.25.020; Ord. No. 50, 2011, § 1, 12-20-2011; Ord. No. 22, 2008, § 1, 7-1-2008)

Sec. 14-225. Responsibility of parents and guardians.

(a) It is unlawful for any parent, guardian or other person having the legal care or custody of any minor falling under the terms of this chapter to knowingly allow or permit such minor to violate any of the terms or provisions of section 14-223 or 14-224.

(1) The term knowingly, as used herein, means knowledge which a parent, guardian or other person having legal custody of a person who has not reached his 18th birthday should reasonably be expected to have concerning the whereabouts of said minor.

(2) It shall be an affirmative defense to charges under this section that the minor has been determined by a court prior to the date of the alleged violation to be beyond the control of the parent, guardian or other person having the legal custody of said minor.

(3) At any trial for a violation of this section at which the defendant raises an affirmative defense set forth in subsection (a)(2) of this section, the defendant shall have the burden of proving every element of the affirmative defense.

(b) The first violation of this chapter shall be deemed a misdemeanor infraction and shall be punished pursuant to chapter 9 of title 1 of this Code.

(c) Any second or subsequent violation of this chapter within 365 days of the first violation shall be deemed a misdemeanor offense and shall be punished pursuant to chapter 9 of title 1 of this Code.

(Code 1994, § 10.25.030; Ord. No. 22, 2008, § 1, 7-1-2008; Ord. No. 36, 2009, §§ 1, 2, 8-18-2009; Ord. No. 50, 2011, § 1, 12-20-2011)

Secs. 14-226--14-243. Reserved.

CHAPTER 8. OFFENSES RELATING TO CONTROLLED SUBSTANCES

Sec. 14-244. Offenses relating to marijuana.

(a) Any person aged 18 to 20 years, inclusive, who possesses not more than two ounces of marijuana commits a misdemeanor offense and, upon conviction thereof, shall be punished pursuant to chapter 9 of title 1 of this Code.

(b) Any person aged 18 to 20 years, inclusive, who openly and publicly displays, consumes or uses not more than two ounces of marijuana commits a misdemeanor offense and, upon conviction thereof, shall be punished pursuant to chapter 9 of title 1 of this Code.

(c) Except as otherwise provided in subsections (a) and (b) of this section, consumption or use of marijuana or marijuana concentrate by any person aged 18 to 20 years, inclusive, shall be deemed possession thereof, and violations shall be punished pursuant to chapter 9 of title 1 of this Code.

(d) Transferring or dispensing not more than two ounces of marijuana from one person aged 18 to 20, inclusive, to another person aged 18 to 20 years, inclusive, for no consideration shall be deemed possession and not dispensing or sale thereof.

(e) Any person who consumes not more than two ounces of marijuana in a manner that endangers others commits a misdemeanor offense and, upon conviction thereof, shall be punished pursuant to chapter 9 of title 1 of this Code.

(f) Any person who openly and publicly consumes marijuana commits a misdemeanor offense and, upon conviction thereof, shall be punished pursuant to chapter 9 of title 1 of this Code.

(g) Any person aged 21 years and older who possesses more than one ounce but less than two ounces of marijuana commits a misdemeanor offense and, upon conviction thereof, shall be punished pursuant to chapter 9 of title 1 of this Code.

(h) Any person aged 21 years and older who transfers less than two ounces of marijuana to another person aged 18 to 20, inclusive, commits a misdemeanor offense and, upon conviction thereof, shall be punished pursuant to chapter 9 of title 1 of this Code.

(i) Transferring or dispensing more than one but less than two ounces of marijuana from one person aged 21 years or older, to another person aged 21 years or older, for no consideration shall be deemed possession and not dispensing or sale thereof.

(j) The provisions of this section shall not apply to any person who possesses, uses, prescribes, dispenses or administers any drug classified under Group C guidelines of the National Cancer Institute, as amended, approved by the Federal Food and Drug Administration.

(k) The provisions of this section shall not apply to any person who possesses, uses, prescribes, dispenses or administers dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food

and Drug Administration approved drug product, pursuant to the "Colorado Controlled Substances Act," C.R.S. title 12, art. 22, pt. 3.

(l) This section shall not apply to any person who possesses or uses marijuana in compliance with section 14 of article XVIII of the Colorado Constitution and the implementing state statutes and administrative policies.

(m) The municipal court may order that the defendant submit to and complete an addiction evaluation or assessment, and may further order treatment, probation and/or deferred prosecution or deferred sentencing for any person who violates any provision of this section.

(Code 1994, § 10.26.010; Ord. No. 78, 1997, § 1, xx-xx-1997; Ord. No. 43, 2008, § 1, 11-4-2008; Ord. No. 51, 2009, § 1, 10-20-2009; Ord. No. 07, 2011, § 1, 2-1-2011; Ord. No. 50, 2011, § 1, 12-20-2011; Ord. No. 14, 2013, § 1, 6-4-2013)

Sec. 14-245. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the laws of the state or city. The term "drug paraphernalia" does not include equipment, products or material of any kind that are used or intended for use in compliance with section 14 of article XVIII of the Colorado Constitution and the implementing state statutes and administrative policies. The term "drug paraphernalia" does not include marijuana accessories used by individuals aged 21 years and older in compliance with article XVIII, section 16 of the Colorado Constitution and the implementing state statutes and administrative policies. The term "drug paraphernalia" includes, but is not limited to:

(1) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances under circumstances in violation of the laws of the state or city;

(2) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

(3) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

(4) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in packaging small quantities of controlled substances;

(5) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

(6) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances; or

(7) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing a controlled substance into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips, meaning objects used to hold burning material, such as a cigarette containing a controlled substance that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

e. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs; or

m. Ice pipes or chillers.

~~*Enclosed space* means a permanent or semi-permanent area, surrounded on all sides. The temporary opening of windows or doors does not convert the area into an unenclosed space.~~

~~*Locked space* means the area where cultivation occurs must be secured at all points of ingress and egress with a locking mechanism designed to limit access.~~

Marijuana means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or its resin, including marijuana concentrate. The term "marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

Marijuana accessories means any equipment, products or materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana or for ingesting, inhaling or otherwise introducing marijuana into the human body.

Openly means not protected from unaided observations lawfully made from outside its perimeter not involving physical intrusion.

Publicly means an area which is open to general access without restriction.

(Code 1994, § 10.26.020; Ord. No. 78, 1997, § 2, xx-xx-1997; Ord. No. 51, 2009, § 1, 10-20-2009; Ord. No. 50, 2011, § 1, 12-20-2011; Ord. No. 14, 2013, § 2, 6-4-2013)

Sec. 14-246. Drug paraphernalia; determination considerations.

In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) The proximity of the object to controlled substances;

(3) The existence of any residue of controlled substances on the object.

(Code 1994, § 10.26.030; Ord. No. 78, 1997, § 3, xx-xx-1997)

Sec. 14-247. Possession of drug paraphernalia; penalty.

(a) A person commits possession of drug paraphernalia if he possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used for illegal purposes.

(b) A violation of this section is a misdemeanor infraction and shall be punishable under chapter 9 of title 1 of this Code, except that the maximum fine for violation of this section shall be $100.00.

(Code 1994, § 10.26.040; Ord. No. 78, 1997, § 4, xx-xx-1997; Ord. No. 27, 2010, § 1, 7-20-2010)

Sec. 14-248. Manufacture, sale or delivery of drug paraphernalia; penalty.

Any person who sells or delivers, possesses with intent to sell or deliver or manufactures with intent to sell or deliver equipment, products or materials knowing, or under circumstances where one reasonably should know, that

such equipment, products or materials could be used as drug paraphernalia commits a misdemeanor offense under this section.

(Code 1994, § 10.26.050; Ord. No. 78, 1997, § 5, xx-xx-1997)

Sec. 14-249. Advertisement of drug paraphernalia; penalty.

Any person who places an advertisement in any newspaper, magazine, handbill or other publication and who intends thereby to promote the sale of equipment, products or materials designed and intended for use as drug paraphernalia commits a misdemeanor offense under this section.

(Code 1994, § 10.26.060; Ord. No. 78, 1997, § 6, xx-xx-1997)

Sec. 14-250. Retail sale of methamphetamine precursor drugs; limitations.

(a) Retail distributors selling products containing a "methamphetamine precursor drug," defined here as ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, must place such products in a secured area that is only accessible to the public with the assistance of the retailer or its employees, who shall be trained to prevent theft or diversion of these products. Such retailers must provide proof of such a training program to the city. The term "methamphetamine precursor drug" does not include a substance contained in any package or container that is labeled by the manufacturer as intended for pediatric use.

(b) Retail distributors are prohibited from selling to a purchaser methamphetamine precursor drugs except in blister packs, with each blister to contain not more than two dosage units or, when the use of blister packs is technically infeasible, sales in unit dose packets or pouches.

(c) Retail distributors may not deliver in a single sale in or from a store more than three packages of a methamphetamine precursor drug or a combination of two or more methamphetamine precursor drugs.

(d) Upon satisfactory application by a manufacturer, the city may exempt any product it determines to have been formulated to effectively prevent the conversion of any active ingredient in the product into methamphetamine or any other controlled substance.

(e) No person in the course of selling, offering for sale or otherwise distributing a PSE product shall provide locally displayed advertisement or representation in any manner that the product causes euphoria, ecstasy, a buzz or high or an altered mental state; heightens sexual performance; or, because it contains ephedrine alkaloids, causes increased muscle mass.

(Code 1994, § 10.26.070; Ord. No. 41, 2005, § 1, xx-xx-2005; Ord. No. 70, 2005, § 1, 12-6-2005)

Sec. 14-251. ~~Violation~~ Selling precursor drugs; penalty.

Any ~~violation of this chapter shall be punishable as provided in chapter 9 of title 1 of this Code~~ person who fails to comply with the imitations regarding sale of methamphetamine precursor drugs commits a misdemeanor offense.

(Code 1994, § 10.26.080; Ord. No. 70, 2005, § 2, 12-6-2005)

Secs. 14-252--14-282. Reserved.

CHAPTER 9. OFFENSES AGAINST PROPERTY

Sec. 14-283. Abandonment of a motor vehicle; violation designated.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Abandon means to leave a thing with the intention not to retain possession of or assert ownership over it. The intent need not coincide with the act of leaving.

(b) Any person who abandons any motor vehicle upon a street, highway, right-of-way or any other public property or upon any private property without the express consent of the owner or person in lawful charge of such private property commits the violation of abandonment of a motor vehicle. Any vehicle so left on property other than public rights-of-way for a period longer than 24 hours, following placement of notice of removal on the vehicle

by the property owner or lessee, shall be presumed to be abandoned unless prior arrangements with the owner or lessee of the property have been made. A sign shall be posted prominently on commercial locations advising that abandoned vehicles will be towed away at the discretion of the property owner or lessee.

(c) Any vehicle left unattended within any portion of a public highway right-of-way for a period of 24 hours or more, following placement of notice of removal on the vehicle by the police, shall be presumed abandoned unless the owner or operator thereof has conspicuously affixed thereto information indicating his intention to return or has otherwise notified the police of his intention to move the vehicle.

(d) Any vehicle left on property located in a city park or on city property for a period longer than 24 hours, following placement of notice of removal on the vehicle by the city or the police, shall be presumed to be abandoned.

(e) Any inoperable vehicle, as defined by sections 12-408 and 12-413, which is placed on any public right-of-way or public highway right-of-way shall be considered abandoned and presumptively a public nuisance, subject to immediate towing by the police department, without advance notice to the vehicle owner.

(f) It shall not be a defense to a violation of any provision of this section that an inoperable vehicle has been moved prior to towing, unless said vehicle has been moved inside of an enclosed garage or other building as contemplated by section 12-410.

(Prior Code, § 15-35(a), (b); Code 1994, §§ 10.28.010, 10.28.020; Ord. No. 56, 1993, § 1, 10-5-1993; Ord. No. 75, 1997, § 1, 12-16-1997; Ord. No. 07, 2011, § 1, 2-1-2011)

~~**Sec. 14-282. Abandon defined.**~~

~~(Code 1994, § 10.28.020; Prior Code, § 15-35(b))~~

Sec. 14-284. Actions evidencing intent.

(a) It is prima facie evidence of the necessary intent to commit the violation set out at section 14-283 that:

(1) The motor vehicle has been left for more than seven days unattended and unmoved;

(2) License plates or other identifying marks have been removed from the motor vehicle;

(3) The motor vehicle has been damaged or is deteriorated so extensively that it has value only for junk or salvage;

(4) The owner has been notified by a law enforcement agency to remove the motor vehicle from any portion of a street or highway right-of-way, and it has not been removed within 24 hours after notification;

(5) The owner has been notified by a private property owner or owner's agent to remove the motor vehicle from private property and it has not been removed within 24 hours after notification;

(6) The motor vehicle is located in a city park or on city property, and it has not been moved within a period of 24 hours after notification.

(b) Nothing in this section shall require notice to any motor vehicle owner by any law enforcement agency prior to removal and/or storage of the motor vehicle, except as otherwise required by this Code. If a vehicle has been left for more than seven days unattended and unmoved, no notice shall be required prior to the tow of that abandoned vehicle.

(Prior Code, § 15-35(c); Code 1994, § 10.28.030; Ord. No. 47, 1990, § 1, 9-5-1990; Ord. No. 56, 1993, § 3, 10-5-1993; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 14-285. Compartmented items; discarding, abandoning or permitting.

Any person abandoning or discarding, in any public or private place accessible to children, any chest, closet, piece of furniture, refrigerator, icebox, motor vehicle or other article having a compartment of a capacity of 1 ½ cubic feet or more and having a door or lid which, when closed, cannot be opened easily from the inside, or who, being the owner, lessee or manager of such place, knowingly permits such abandoned or discarded article to remain in such condition, commits a violation of this section.

(Prior Code, § 15-36; Code 1994, § 10.28.040)

Sec. 14-286. Criminal mischief.

Any person who knowingly damages the real or personal property of one or more persons or of the public, in the course of a single criminal episode where the aggregate damage to the real or personal property is less than $1,000.00, commits the violation of criminal mischief.

(Prior Code, § 15-40; Code 1994, § 10.28.050; Ord. No. 68, 1980, § 10, 8-5-1980; Ord. No. 45, 1992, (part), 6-16-1992; Ord. No. 63, 1998, § 1, 11-17-1998; Ord. No. 50, 2011, § 1, 12-20-2011)

Sec. 14-287. Interference with a parking immobilization device.

It shall be unlawful for any person to remove or attempt to remove any immobilization device before a release is obtained as provided in section 1-281 or to move any such vehicle before the immobilization device is released by the city after payment of the appropriate fines and costs. Violation of this section shall punishable as a misdemeanor offense.

(Ord. No. 12, 2019, exh. C, § 10.28.051, 3-19-2019)

Sec. 14-288. Criminal trespass; violation designated.

(a) As used in this section:

(1) The term "premises" means real property, buildings and other improvements thereon and the stream banks and beds of any non-navigable freshwater streams flowing through such real property.

(2) A person unlawfully enters or remains in or upon premises when he is not licensed, invited or otherwise privileged to do so.

(b) A person commits the violation of criminal trespass if:

(1) He unlawfully enters or remains in or upon premises;

(2) He unlawfully enters or remains in or upon premises which are enclosed in a manner designed to exclude intruders or are fenced; or

(3) He knowingly and unlawfully enters or remains in or upon the premises of a hotel, motel, condominium or apartment building.

(Code 1994, §§ 10.28.053, 10.28.054; Ord. No. 37, 1988, §§ 1(part), 2(part), 8-16-1988)

~~**Sec. 14-288. Premises and unlawfully enters or remains defined.**~~

~~(Code 1994, § 10.28.054; Ord. No. 37, 1988, §§ 1(part), 2(part))~~

Sec. 14-289. Premises open to public; license and privilege; exception.

With respect to the violation designated in section 14-288, a person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public, does so with license and privilege, unless he defies a lawful order not to enter or remain, personally communicated to him by the owner of the premises or some other authorized person.

(Code 1994, § 10.28.055; Ord. No. 37, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-290. Building only partly open to public; license and privilege; exception.

With respect to the violation designated in section 14-288, a license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public.

(Code 1994, § 10.28.056; Ord. No. 37, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-291. Unimproved and unused land; license and privilege; exceptions.

With respect to the violation designated in section 14-288, a person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders does so with license and privilege, unless:

(1) Notice against trespass is personally communicated to him by the owner of the land or some other

authorized person; or

(2) Notice forbidding entry is given by posting with signs at intervals of not more than 440 yards or, if there is a readily identified entrance to the land, by posting with signs at such entrance to the private land or the forbidden part of the land. In the case of a designated access road not otherwise posted, said notice shall be posted at the entrance to the private land and shall be substantially as follows:

"ENTERING PRIVATE PROPERTY

REMAIN ON ROADS"

(Code 1994, § 10.28.057; Ord. No. 37, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-292. Defacing posted notice.

Any person who intentionally mars, destroys or removes any posted notice authorized by law commits the violation of defacing posted notice.

(Prior Code, § 15-41; Code 1994, § 10.28.060)

~~**Sec. 14-293. Litter; definitions.**~~

~~(a) *Litter*, as used in sections 14-294, 14-295 and 14-296, means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description.~~

~~(b) *Public or private property*, as used in sections 14-294, 14-295 and 14-296, includes, but is not limited to, the right-of-way of any street or highway; and any body of water, ditch or watercourse, including frozen areas thereof, or the shores or beaches thereof; any park, playground or building; any refuge, conservation or recreation area; and any residential or business property.~~

~~(Prior Code, § 15-43(b), (c); Code 1994, § 10.28.070)~~

~~**Sec. 14-294. Littering; designated.**~~

~~(a) Any person who deposits, throws or leaves any litter on any public or private property, or in any waters, commits a violation of this section unless:~~

~~(1) Such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property;~~

~~(2) The litter is placed in a receptacle or container installed on such property for such purpose; or~~

~~(3) Such person is the owner or tenant in lawful possession of such property or has first obtained written consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of such owner or tenant.~~

~~(b) A violation of this section is a misdemeanor infraction and shall be punishable under chapter 9 of title 1 of this Code.~~

~~(Prior Code, § 15-43(a); Code 1994, § 10.28.080; Ord. No. 27, 2010, § 1, 7-20-2010)~~

Sec. 14-293. Drivers presumed responsible.

Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle~~ in violation of section 14-294~~, the operator of the motor vehicle is presumed to have caused or permitted such litter to have been so thrown, deposited, dropped or dumped therefrom.

(Prior Code, § 15-43(d); Code 1994, § 10.28.090)

~~**Sec. 14-296. Provisions not to authorize prohibited conduct.**~~

~~Section 14-294(a)(3) does not authorize any conduct prohibited by other provisions of this Code, including those found in this title.~~

~~(Prior Code, § 15-43(e); Code 1994, § 10.28.100; Ord. No. 68, 1981, § 12, 10-6-1981)~~

Sec. 14-294. Obstructing highways or pedestrian passageways; violation designated.

A person commits a violation of this section if, without legal privilege, he intentionally, knowingly or recklessly:

(1) Obstructs a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway to which the public or a substantial group of the public has access, or any other place used for the passage of persons, vehicles or conveyances, whether the obstruction arises from his acts alone or from his acts and the acts of others; or

(2) Disobeys a reasonable request or order to move, issued by a person he knows to be a peace officer, a fireman or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot or other hazard.

(Prior Code, § 15-31(a); Code 1994, § 10.28.110)

Sec. 14-295. Obstruct defined.

For the purposes of section 14-294, the term "obstruct" means to render impassable or to render passage unreasonably inconvenient or hazardous.

(Prior Code, § 15-31(b); Code 1994, § 10.28.120)

Sec. 14-296. Posting notice without consent.

(a) Any person who places a posted notice or advertisement upon any public or private property without the consent of the owner of such property commits the violation of posting notice without consent.

(b) A violation of this section is a misdemeanor infraction and shall be punishable under chapter 9 of title 1 of this Code.

(Prior Code, § 15-42; Code 1994, § 10.28.130; Ord. No. 27, 2010, § 1, 7-20-2010)

Sec. 14-297. Theft.

A person commits the violation of theft when he knowingly obtains or exercises control over anything of value of another without authorization, or by threat or deception, and the value of the thing involved is less than $1,000.00, and:

(1) Intends to deprive the other person permanently of the use or benefit of the thing of value;

(2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;

(3) Uses, conceals or abandons the thing of value, intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or

(4) Demands any consideration to which he is not legally entitled as a condition of restoring the thing of value to the other person.

(Code 1994, § 10.28.140; Ord. No. 37, 1988, §§ 1(part), 2(part), 8-16-1988; Ord. No. 45, 1992, (part), 6-16-1992; Ord. No. 77, 1997, § 1, 12-16-1997; Ord. No. 46, 2007, § 1, 8-21-2007)

Sec. 14-298. Concealment of goods; prima facie evidence.

If any person willfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment valued at less than $1,000.00, whether the concealment be on his own person or otherwise and whether on or off the premises of said store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the violation of theft under section 14-297.

(Code 1994, § 10.28.150; Ord. No. 37, 1988, §§ 1(part), 2(part), 8-16-1988; Ord. No. 63, 1998, § 2, 11-17-1998; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 14-299. Definition of another and thing of value.

(a) For the purpose of sections 14-297 and 14-303, a thing of value is that of another, if anyone other than the defendant has a possessory or proprietary interest therein.

(b) For the purposes of section 14-297, the term "thing of value" includes real property, tangible and intangible personal property, contract rights, choses in action, services and any rights of use or enjoyment connected therewith. The term "thing of value" shall not include: trade secrets, medical records, medical information, motor vehicles or any part, equipment, attachment, accessory or appurtenance contained in or forming a part of an automobile which is the property of another.

(Code 1994, § 10.28.160; Ord. No. 37, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-300. Evidence of value; from a store.

For the purposes of section 14-297, when theft occurs from a store, evidence of the retail value of the thing involved shall be prima facie evidence of the value of the thing involved. Evidence offered to prove retail value may include, but shall not be limited to, affixed labels and tags, signs, shelf tags and notices.

(Code 1994, § 10.28.170; Ord. No. 37, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-301. Excluded activities.

No person shall be charged with a violation of section 14-297 if:

(1) The theft is from the person of another;

(2) The person commits theft twice or more within a period of six months without having been placed in jeopardy for the prior offense or offenses and the aggregate value of the things involved is $1,000.00 or more.

(Code 1994, § 10.28.180; Ord. No. 37, 1988, §§ 1(part), 2(part), 8-16-1988; Ord. No. 45, 1992, (part), 6-16-1992; Ord. No. 63, 1998, § 3, 11-17-1998; Ord. No. 46, 2007, § 1, 8-21-2007; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 14-302. Sufficiency of complaint; bill of particulars.

In every complaint or summons and complaint charging a violation of section 14-297, it shall be sufficient to allege that, on or about a day certain, the defendant committed the violation of theft by unlawfully taking a thing or things of value of a person or persons named in the complaint or summons and complaint. The prosecuting attorney shall, at the request of the defendant, provide a bill of particulars.

(Code 1994, § 10.28.190; Ord. No. 37, 1988, §§ 1(part), 2(part), 8-16-1988)

Sec. 14-303. Theft of auto parts; violation designated.

Any person who willfully and without authorization, or by threat or deception, removes, detaches or takes from an automobile which is the property of another, any part, equipment, attachment, accessory or appurtenance contained in or forming a part of such automobile of a total combined value of less than $1,000.00 and any person who aids, abets or assists in the commission of any such willful and unlawful act commits the violation of theft of auto parts.

(Code 1994, § 10.28.200; Ord. No. 37, 1988, §§ 1(part), 2 (part), 8-16-1988; Ord. No. 45, 1992, (part), 6-16-1992; Ord. No. 63, 1998, § 4, 11-17-1998; Ord. No. 46, 2007, § 1, 8-21-2007)

Sec. 14-304. Theft of rental property; violation designated.

(a) A person commits the theft of rental property if he:

(1) Obtains the temporary use of rental property of another of a value of less than $1,000.00 which is available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the personal property; or

(2) Having lawfully obtained possession for temporary use of the personal property of another of a value of less than $1,000.00 which is available only for hire, knowingly fails to reveal the whereabouts of or return said property to the owner thereof or his representative or to the person from whom he received it within 72 hours after the time at which he agreed to return it.

(b) The date or time specified in any rental agreement signed by the person charged with the violation of this section shall be prima facie evidence of the time or date on which the property should have been returned.

(c) Any person who aids, abets or assists in the commission of a violation of subsection (a) of this section commits the crime of theft of rental property.

(Code 1994, § 10.28.210; Ord. No. 26, 1990, § 1, 5-1-1990; Ord. No. 45, 1992, (part), 6-16-1992; Ord. No. 63, 1998, § 5, 11-17-1998; Ord. No. 46, 2007, § 1, 8-21-2007)

Secs. 14-305--14-332. Reserved.

CHAPTER 10. OFFENSES BY OR AGAINST MINORS

Sec. 14-333. Harboring of minors unlawful.

(a) It is unlawful for any person to harbor, keep secret or provide shelter for an unmarried child under 18 years of age without the consent of the parent, legal guardian or other person having legal custody of such child.

(b) It is unlawful for any person to harbor, keep secret or provide shelter for an unmarried child under 18 years of age when such person knows the child to be a parole violator or a fugitive from legal process.

(c) The ordinance codified in this section shall not apply to peace officers working in their official capacities as employees or members of the staffs or agencies authorized by the state to harbor minors.

(Code 1994, § 10.32.020; Ord. No. 34, 1986, § 1, 3-18-1986)

Sec. 14-334. Tobacco product sales to minors.

(a) Any person who knowingly furnishes to any person who is under 18 years of age, by gift, sale or any other means, tobacco products, as defined in subsection (c) of this section, violates this section.

(b) Any person who is under 18 years of age and who purchases any cigarettes or tobacco products, as defined in subsection (c) of this section, violates this section.

(c) As used in this section, the term "tobacco products" means cigarettes, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a pipe or otherwise, or both for chewing and smoking.

(d) A violation of this section is a misdemeanor infraction and shall be punishable under chapter 9 of title 1 of this Code.

(Code 1994, § 10.32.030; Ord. No. 38, 1988, § 2, 8-16-1988; Ord. No. 27, 2010, § 1, 7-20-2010)

Secs. 14-335--14-356. Reserved.

CHAPTER 11. WEAPONS

Sec. 14-357. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Blackjack includes any billy, sand club, sandbag or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance.

Butterfly knife means a knife in which the handle is of two parts which are pivoted in the base of the blade and rotate 180 degrees in opposite directions to deploy the blade.

Gas gun means a device designed for projecting gas-filled projectiles which release their contents after having been projected from the device and includes projectiles designed for use in such a device.

Gravity knife means any knife that has a blade released from the handle or sheath thereof by the force of gravity or the application of centrifugal force, that when released is locked in place by means of a button, spring, lever or other device.

Knife means any dagger, dirk, knife or stiletto, bayonet, machete or sword with a blade over 3 1/2 inches in length or any other dangerous instrument capable of inflicting cutting, stabbing or tearing wounds.

Switchblade knife means any knife, the blade of which opens automatically by hand pressure applied to a button, spring or other device in its handle.

(Prior Code, § 15-52(a); Code 1994, § 10.36.010; Ord. No. 39, 1988, § 2(part), 8-16-1988; Ord. No. 29, 1992, § 1, 5-5-1992)

Sec. 14-358. Illegal weapon defined.

As used in sections 14-359 and 14-361, the term "illegal weapon" means a blackjack, gas gun, metallic knuckles, knife, butterfly knife, gravity knife or switchblade knife.

(Code 1994, § 10.36.020; Ord. No. 39, 1988, §2(part), 8-16-1988; Ord. No. 29, 1992, § 2, 5-5-1992)

Sec. 14-359. Violation designated.

A person, other than a peace officer or member of the armed forces of the United States or Colorado National Guard acting in the lawful discharge of his duties, or a person who has a valid permit and license for the possession of such weapon, commits a violation of this section if he knowingly possesses an illegal weapon.

(Code 1994, § 10.36.030; Ord. No. 39, 1988, §2 (part), 8-16-1988)

Sec. 14-360. Affirmative defenses.

It is an affirmative defense that the illegal weapon is a hunting or fishing knife carried for sports use, any instrument being used in pursuit of a lawful home use, occupation or profession, as part of a military or fraternal uniform, theatrical performance or rehearsal or in conjunction with a historical reenactment.

(Code 1994, § 10.36.035; Ord. No. 29, 1992, § 3, 5-5-1992)

Sec. 14-361. Forfeiture of weapon upon conviction.

Any person convicted of violating section 14-359 forfeits to the city the illegal weapon involved.

(Code 1994, § 10.36.040; Ord. No. 39, 1988, § 2(part), 8-16-1988)

Secs. 14-362--14-380. Reserved.

CHAPTER 12. PROHIBITED RESIDENCY OF SEX OFFENDERS

Sec. 14-381. Findings and intent.

(a) The city council finds that sexual predators and specified sex offenders who use physical violence and who prey on children pose an extreme threat to public safety. Sexual predators and specified sex offenders endanger society by exposing a particularly vulnerable population, children, to extreme harm. Removing sex offenders from the regular proximity of places where children are located and limiting the frequency of contact between sexual predators and specified sex offenders and children will reduce the opportunity and risk for offenses against children to be committed.

(b) The city council further finds that the state sex offender management board has identified restrictions on housing options for registered sex offenders as a factor which may contribute to increased recidivism among individuals who have been convicted of offenses requiring registration.

(c) This chapter is intended to serve the city's compelling interests to promote, protect and improve the health, safety and welfare of the public by creating areas, around locations where children regularly gather in concentrated numbers, where sexual predators and specified sex offenders are prohibited from establishing either temporary or permanent residence while still recognizing the need for safe and adequate housing for those individuals who are released to the community by state authorities.

(Code 1994, § 10.40.010; Ord. No. 2, 2014, §§ 1, 2, 2-4-2014)

Sec. 14-382. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Park means any public park, including playgrounds.

Permanent residence means a place where a person abides, lodges or resides for five or more consecutive days.

Recreation center means a publicly owned recreation or sports center, including, but not limited to, the downtown recreation center, the Greeley Ice Haus, the Greeley Family Fun Plex and the Rodarte Center.

School means any public, private, parochial, charter or other school attended by students under the age of 18, except for home schools.

Sexual predator means any person age 18 or older who has been found to be a sexually violent predator pursuant to the applicable provisions of C.R.S. title 18, as amended from time to time, related to a conviction where at least one victim was a minor under the age of 18.

Specified sex offender means any person age 18 or older who has been required to register under the Colorado Offender Registration Act, C.R.S. title 16, as amended from time to time, and:

(1) Who has been convicted of a felony for an offense requiring registration where the victim was under the age of 18;

(2) Who has multiple convictions for offenses requiring registration where at least one victim was under the age of 18; or

(3) Whose offenses requiring registration involved multiple victims and at least one victim was under the age of 18.

Swimming pool means a publicly owned, water-filled structure used for the purpose of swimming or other water activities, including splash parks. The term "swimming pool," as used in this chapter, shall not include any water-filled structures which are not publicly owned.

Temporary residence means a place where a person abides, lodges or resides for a period of five or more days in an aggregate calendar year and which is not the person's permanent residence; or a place where a person routinely abides, lodges or resides for a period of five or more consecutive or nonconsecutive days in any month and which is not the person's permanent address.

(Code 1994, § 10.40.020; Ord. No. 2, 2014, §§ 1, 2, 2-4-2014)

Sec. 14-383. Prohibition.

(a) It shall be unlawful for a sexual predator or a specified sex offender to establish a permanent or temporary residence within 300 feet of any school, park, recreational center or swimming pool.

(b) It shall be unlawful to let or rent any portion of any property, room, place, structure, trailer or other vehicle to a sexual predator or specified sex offender with the knowledge that it will be used as a permanent or temporary residence in violation of this chapter.

(Code 1994, § 10.40.030; Ord. No. 2, 2014, §§ 1, 2, 2-4-2014)

Sec. 14-384. Exceptions.

(a) A sexual predator or specified sex offender is not guilty of a violation of section 14-383 if:

(1) The sexual predator or specified sex offender had established the permanent or temporary residence prior to the effective date of the ordinance from which this chapter is derived; provided, however, that this exception shall not apply if the sexual predator or specified sex offender committed and was convicted of offenses identified in section 14-382 and for which registration under the Colorado Sex Offender Registration Act is required, after the effective date of the ordinance form which this chapter is derived;

(2) The sexual predator or specified sex offender is placed in the residence pursuant to a state-licensed foster care program; or

(3) The school, park, swimming pool or recreation center was opened after the sexual predator or specified sex offender established the permanent or temporary residence.

(b) A person who lets or rents any portion of any property, room, place, structure, trailer or other vehicle to

a sexual predator or specified sex offender with the knowledge that it will be used as a permanent or temporary residence in violation of this chapter is not guilty of a violation of section 14-383 if:

(1) The person let or rented the property, room, place, structure, trailer or other vehicle to the sexual predator or specified sex offender prior to the effective date of this chapter;

(2) The person lets or rents the property, room, place, structure, trailer or other vehicle to a sexual predator or specified sex offender pursuant to a state-licensed foster care program; or

(3) The person let or rented the property, room, place, structure, trailer or other vehicle to the sexual predator or specified sex offender prior to the opening of any school, park, swimming pool or recreation center.

(Code 1994, § 10.40.040; Ord. No. 2, 2014, §§ 1, 2, 2-4-2014)

Sec. 14-385. Measurement.

For the purposes of determining a minimum distance separation required herein, the measurement shall be made by following a straight line from the outer property line of the property on which the school, park, swimming pool or recreational center is located to the nearest point on the outer property line of the property on which the permanent or temporary residence is located.

(Code 1994, § 10.40.050; Ord. No. 2, 2014, §§ 1, 2, 2-4-2014)

Sec. 14-386. Penalties.

Violations of this chapter are subject to any and all penalties as provided in chapter 9 of title 1 of this Code.

(Code 1994, § 10.40.060; Ord. No. 2, 2014, §§ 1, 2, 2-4-2014)

Secs. 14-387--14-415. Reserved.

CHAPTER 13. REGULATION OF INTERNET-BASED SIMULATED GAMBLING FACILITIES

Sec. 14-416. Statement of intent and legal authority.

(a) *Statement of legal authority.* The city, as a Colorado home rule municipality, is authorized to exercise all powers of self-government, as set forth in article 20, section 6 of the Colorado Constitution. Included within these general powers of self-government are the powers necessary, requisite or proper for the government and administration of its local and municipal matters. The city's Home Rule Charter, at section 1-3, specifically provides that the city shall have all powers granted to municipalities under the state statutes, as defined therein. These powers specifically include:

(1) The general police powers enumerated in C.R.S. § 31-15-401; and

(2) The powers to regulate businesses enumerated in C.R.S. § 31-15-501.

(b) *Statement of intent.* The intent of this article is to prohibit the operation of simulated gambling devices, as defined herein, to provide for remedies in conjunction therewith, and to provide for the imposition of penalties for violations thereof.

(Code 1994, § 10.45.010; Ord. No. 33, 2015, § 1, 10-6-2015)

Sec. 14-417. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Assistance by the player does not include games which employ the use of skill stops.

Electronic gaming machine means a mechanically, electrically, or electronically-operated machine or device that displays the results of a sweepstakes game entry or game outcome to a participant on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by any person conducting the sweepstakes or by that person's partners, affiliates, subsidiaries, agents, or contractors.

The term "electronic gaming machine" includes an electronic gaming machine or device that:

(1) Uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries;

(2) Uses software that simulates a game that influences or determines the winning or value of the prize, or appears to influence or determine the winning or value of the prize;

(3) Selects prizes from a predetermined, finite pool of entries;

(4) Uses a mechanism that reveals the content of a predetermined sweepstakes entry;

(5) Predetermines the prize results and stores those results for delivery at the time the sweepstakes entry is revealed;

(6) Uses software to create a game result;

(7) Arranges winning entries in a predetermined sequence or sequences that are unpredictable to the player;

(8) Requires a deposit of any currency or token or the use of any credit card, debit card, prepaid card, or other method of payment to activate the electronic gaming machine or device;

(9) Requires direct payment into the electronic gaming machine or device or remote activation of the electronic gaming machine or device upon payment to the person offering the sweepstakes game;

(10) Requires purchase of a related product at additional cost in order to participate in the sweepstakes game, or makes a related product available for no cost but under restrictive conditions;

(11) Reveals a sweepstakes prize incrementally even though the progress of the images on the screen does not influence whether a prize is awarded or the value of any prize awarded; or

(12) Determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

Enter or *entry* means the act or process by which a person becomes eligible to receive any prize offered in a game promotion or sweepstakes.

Prize means any gift, award, gratuity, good, service, credit, or anything else of value that may be transferred to a person, whether or not possession of the prize is actually transferred or placed on an account or other record as evidence of the intent to transfer the prize. The term "prize" does not include free or additional play or any intangible or virtual award that cannot be converted into money or merchandise.

Simulated gambling device means a mechanically or electronically-operated machine, network, system, program, or device that displays simulated gambling displays on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by any person conducting the game or by that person's partners, affiliates, subsidiaries, agents or contractors. The term "simulated gambling device" includes:

(1) A video poker game or any other kind of video card game;

(2) A video bingo game;

(3) A video craps game;

(4) A video keno game;

(5) A video lotto game;

(6) A video roulette game;

(7) A pot-of-gold;

(8) An eight-liner;

(9) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols;

(10) A personal computer of any size or configuration that performs any of the functions of an electronic gaming machine or device as defined in this section;

(11) A slot machine, as defined by C.R.S. § 12-47.1-103(26)(a);

(12) A device that functions as, or simulates the play of, a slot machine;

(13) Any matchup or lineup game machine or device, operated for any consideration, in which two or more numerals, symbols, letters, or icons align in a winning combination on one or more lines vertically, horizontally, diagonally, or otherwise, without assistance by the player; and

(14) Any video game machine or device, operated for any consideration, for the play of poker, blackjack, any other card game, or keno or any simulation or variation of any of the foregoing, including, but not limited to, any game in which numerals, numbers, or any pictures, representations, or symbols are used as an equivalent or substitute for cards in the conduct of such game.

Sweepstakes shall have the same meaning as is set forth in C.R.S. § 6-1-802(10).

(Code 1994, § 10.45.020; Ord. No. 33, 2015, § 1, 10-6-2015)

Sec. 14-418. Simulated gambling devices prohibited.

A person commits the crime of unlawful offering of a simulated gambling device if the person offers, facilitates, contracts for, or otherwise makes available to or for members of the public or members of an organization or club any simulated gambling device where:

(1) The payment of consideration is required or permitted for use of the device, for admission to premises on which the device is located, or for the purchase of any product or service associated with access to or use of the device; and

(2) As a consequence of, in connection with, or after the play of the simulated gambling device, an award of a prize is expressly or implicitly made to a person using the device.

(Code 1994, § 10.45.030; Ord. No. 33, 2015, § 1, 10-6-2015)

Sec. 14-419. Criminal penalties.

Any person found to be in violation of this article shall, upon conviction, be fined up to the maximum penalty set forth in chapter 10 of title 1 of this Code. Each day such violation continues shall be considered a separate offense.

(Code 1994, § 10.45.040; Ord. No. 33, 2015, § 1, 10-6-2015)

Sec. 14-420. Other remedies.

(a) Without regard to any penalty imposed under section 14-419, the city may apply to a court of competent jurisdiction for appropriate additional relief, including:

(1) Injunctive relief to restrain and enjoin violations of this article;

(2) Such other and further relief as is available at law or in equity.

(b) The remedies set forth in this article shall not be exclusive, shall be cumulative, and shall be in addition to any other relief or penalty imposed upon the person in violation.

(Code 1994, § 10.45.050; Ord. No. 33, 2015, § 1, 10-6-2015)

Sec. 14-421. Exceptions, exemptions, provisions inapplicable.

(a) Nothing in this section:

(1) Prohibits, limits, or otherwise affects any purchase, sale, exchange, or other transaction related to stocks, bonds, futures, options, commodities, or other similar instruments or transactions occurring on a stock or commodities exchange, brokerage house, or similar entity;

(2) Limits or alters in any way the application of the requirements for sweepstakes, contests, and similar activities that are otherwise established under the laws of the state; or

(3) Prohibits any activity authorized under C.R.S. title 24, art. 35 or C.R.S. title 12, art. 9, 47.1 or 60.

(b) The provision of internet or other on-line access, transmission, routing, storage, or other communication-related services or web site design, development storage, maintenance, billing, advertising, hypertext linking,

transaction processing, or other site-related services by a telephone company, internet service provider, software developer or licensor, or other party providing similar services to customers in the normal course of its business does not violate this article even if those customers use the services to conduct a prohibited game, contest, lottery, or other activity in violation of this article; except that this subsection (b) does not exempt from criminal prosecution or civil liability any software developer, licensor, or other party whose primary purchase in providing such service is to support the offering of simulated gambling devices.

(Code 1994, § 10.45.060; Ord. No. 33, 2015, § 1, 10-6-2015)

Secs. 14-422--14-440. Reserved.

CHAPTER 14. ALARM SYSTEMS

Sec. 14-441. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Burglar alarm device, as used in this chapter, means any device located in a building in the city which, when activated, causes an alarm to be sent directly to the police department or other city terminal, or which causes an alarm to be transmitted to the police department or other city terminal indirectly from any switchboard, transferring terminal or other switching device, either by self-dialing prerecorded notification units, telephone lines, radio waves, sound waves or any other means, which alarm, whether sent directly or indirectly, is sent for the purpose of alerting any person or device of an intrusion, possible intrusion, open door, open window, holdup or for any other purpose, excluding fire alarm. The term burglar alarm shall include, but not be limited to, robbery alarms, panic alarms and distress alarms.

False alarm, as used in this chapter, means any alarm signal originating from a police or fire alarm device or audible alarm device to which the police or fire department responds and which results from:

(1) False activation, including reporting of a robbery, burglary or other crime where no actual or attempted robbery, burglary or other crime has occurred, or reporting a burglar alarm where there is no evidence to substantiate an attempted or forced entry to the premises;

(2) Alarm malfunction, including a mechanical or electrical failure;

(3) Alarm triggered by the permittee's negligence; or

(4) Trouble condition, including electrical failure or telephone company malfunction. If immediate notice is communicated to the police department or fire department before the responding police or fire units arrive at the scene that the alarm was accidentally activated, such alarm will not be considered a false alarm.

Main emergency terminal, as used in this chapter, means the telephone terminal utilized to receive emergency information for transmittal to the police department and any other such terminal utilized for like purposes.

(Code 1994, § 10.50.010; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-442. Certain alarms prohibited; telephone-transmitting alarms.

It is unlawful for any person, including an owner of a building located within the city, to engage in the installation, servicing, maintaining, repairing, replacing or movement of any burglar alarm device which transmits alarms, directly or indirectly, to a main emergency terminal. A burglar alarm device using a telephone installation or installations as a means of transmitting alarms shall make use only of a telephone number designated for that purpose by the chief of police.

(Code 1994, § 10.50.020; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-443. Administration and enforcement; inspection.

The provisions of this chapter shall be administered and enforced by the chief of police. He is authorized to make inspections of the burglar alarm device and of the premises whereon the device is located. He shall have the power to make and enforce such rules and regulations as may, in his discretion, be necessary to implement the

provisions of this chapter.

(Code 1994, § 10.50.060; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-444. Sound similar to certain sirens unlawful.

It is unlawful to install a burglar alarm device which, upon activation, emits a sound similar to sirens in use on emergency vehicles or for civil defense purposes.

(Code 1994, § 10.50.070; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-445. Use and operation.

It shall be the responsibility of the holder of a permit to instruct and reinstruct his subscriber and/or the occupant of the premises wherein the burglar alarm device is installed in the proper use and operation of the device, whether silent or audible, including all necessary instruction in turning off the alarm and in avoiding false alarms.

(Code 1994, § 10.50.080; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-446. Penalty for false alarms.

(a) The permittee and the occupant of the premises wherein a fire or burglar alarm device is installed shall be subject to a penalty in an amount set in accordance with section 1-38 for each false alarm from the device which exceeds two in any calendar year.

(b) Alarms signaling a medical emergency shall be exempted.

(c) The chief of police and the fire chief are authorized to adopt policies and procedures regarding the administration of this section.

(Code 1994, § 10.50.090; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-447. Payment of penalty.

All false alarm charges, as prescribed in section 14-446, shall be paid to the finance department within 20 days of the notice date.

(Code 1994, § 10.50.100; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-448. Appeal to administrative hearing officer.

(a) It shall be the duty of the city to notify the permittee or the occupant of the premises where the alarm is located, by written notice, of each false alarm.

(b) The permittee or the occupant may appeal, within 20 days of the date of the notice, to the administrative hearing officer to have the particular false alarm notice set aside.

(1) To perfect such an appeal, the permittee or occupant must submit a written statement to the chief of police for burglar, robbery or panic alarms, or to the fire chief for fire alarms, requesting that the administrative hearing officer review the false alarm and state the reasons why the permittee or occupant should not be held responsible for a specific false alarm.

(2) The administrative hearing officer shall set the hearing within 30 days of the date the request for hearing was received.

(3) If the administrative hearing officer determines that the permittee and occupant are not responsible for the false alarm, the alarm shall not be considered a false alarm under the provisions of this section.

(c) An appeal from the administrative hearing officer's decision may be taken in accordance with section 2.09.150 of this Code.

(Code 1994, § 10.50.110; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-449. Posting of service personnel.

Every person maintaining an audible or silent burglar alarm device shall post a framed notice containing the names and telephone numbers of the persons to be notified to render service to the system during any hour of the day or night that such alarm sounds, unless such device also transmits notification to those persons upon its

activation, and shall furnish the police department with those names and telephone numbers. The persons named shall include the occupant of the premises, the permittee responsible for the maintenance of the system and at least one alternate. The framed notice shall be posted in such position as to be visible from the ground level outside and adjacent to the building or on the front door, to which access may be gained of the building wherein such device is installed.

(Code 1994, § 10.50.120; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-450. Responsibility to render service.

The persons named in the posted notice required at section 14-449, or the persons notified by the device, shall, upon proper notification, proceed immediately to the location of the activated alarm and render all necessary service; provided, however, that the occupant of the premises may, by agreement with permittee, assume the permittee's obligation to respond.

(Code 1994, § 10.50.130; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-451. Maintenance required.

No person shall install, permit installation, maintain or cause to be maintained any burglar alarm device for which periodic service or maintenance is not provided.

(Code 1994, § 10.50.140; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-452. Noncompliance; abatement.

Any and all burglar alarm devices which do not comply with the provisions of this chapter are a public nuisance and shall be abated as such.

(Ord. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-453. Compliance timetable.

Any burglar alarm device installed on or prior to the effective date of the ordinance from which this chapter is derived shall be brought into conformity with the requirements of this chapter within a period not to exceed 180 days. Any person owning, managing, conducting, carrying on the business of or permitting installing, servicing, maintaining, repairing, replacing, moving or removing burglar alarm devices, or any person, including an owner, laboring at the trade of and engaging directly in the business of installing, servicing, maintaining, repairing, replacing, moving or removing burglar alarm devices, on the effective date of the ordinance from which this chapter is derived, shall be permitted a period not to exceed 30 days to make application as required under the provisions of this chapter. Upon the application to the finance director and a showing of hardship by any person required to comply with this chapter, the finance director may permit an adjustment for a reasonable period of time.

(Code 1994, § 10.50.160; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-454. Mandatory security measures.

If it is determined by the chief of police that security measures do not adequately secure a business establishment within the city, he may require the installation and maintenance of a photoelectric, ultrasonic or other intrusion-detection or burglar alarm device, or the installation of a physical security measure, including, but not limited to, screening and bars. However, the chief of police shall have no authority to make such determination unless such business establishment has been burglarized, or appears to have been burglarized, on two or more occasions during the preceding 12 months, or unless the type or value of merchandise located at the business establishment requires added security protection. If the chief of police determines that such installation is required, notice in writing shall be given to the responsible person setting forth the installation to be made and the period within which the same shall be completed. Failure to complete the installation in the time specified shall result in enforcement action as provided in section 14-460.

(Code 1994, § 10.50.170; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-455. Appeal.

Within ten days after the receipt of written notice from the chief of police requiring the installation and maintenance of photoelectric, ultrasonic or other intrusion-detection or burglar alarm device, or requiring the

installation of some physical security measures, the person responsible for compliance therewith may appeal in writing to the administrative hearing officer. In filing such notice of appeal, the appellant shall set forth the specific grounds wherein it is claimed there was an error or abuse of discretion by the chief of police, or wherein the issuance of the written notice was not supported by proper evidence.

(Code 1994, § 10.50.180; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-456. Appeal hearing.

Within 30 days of the date the notice of appeal pursuant to section 14-455 was received, the administrative hearing officer shall set the matter for hearing and cause notice thereof to be given to the appellant and to the chief of police or his authorized representative. At such hearing, the appellant shall show cause on the grounds specified in the notice of appeal why the action excepted to should not be affirmed.

(Code 1994, § 10.50.190; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-457. Appeal decision; notice.

The administrative hearing officer may affirm, reverse or modify the decision of the chief of police, as contemplated at section 14-454, requiring the installation and maintenance of a photoelectric, ultrasonic or other intrusion-detection or burglar alarm device, or requiring the installation of some physical security measure. If the decision is affirmed or modified by the administrative hearing officer, the appellant shall be given written notice thereof by the chief of police setting forth the installation to be made and the period of time within which the same shall be completed. In no event shall the period be less than that originally granted the appellant.

(Code 1994, § 10.50.200; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-458. Failure to comply with decision; appeal.

(a) Failure to comply with the administrative hearing officer's decision, as provided at section 14-457, is unlawful and is enforceable as provided in section 14-460.

(b) An appeal from the administrative hearing officer's decision may be taken in accordance with section 2-1037.

(Code 1994, § 10.50.210; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-459. Notice of decision; failure to comply.

If the district court affirms or modifies the decision of the administrative hearing officer, the appellant shall be notified in writing by the chief of police of the installation to be made and the period of time within which the same shall be completed. In no event shall the new period of time be less than that granted originally. Failure to comply with the decision of the district court, on appeal, is unlawful and is enforceable as provided in section 14-460.

(Code 1994, § 10.50.220; Code 1994, § 10.50.220; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)

Sec. 14-460. Violations; penalty by reference.

It is unlawful for any person, firm or corporation to violate or fail to comply with any provision of this chapter. The violation or failure to comply with any provision of this chapter shall be punished as provided in chapter 9 of title 1 of this Code.

(Code 1994, § 10.50.230; Ord. No. 40, 2016, § 1(exh. A), 12-20-2016)**Secs. 14-461--14-479. Reserved.**

CHAPTER 15. FIREWORKS

Sec. 14-480. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Display means a supervised public display of fireworks by municipalities, fair associations, amusement parks or other organizations.

Fireworks means any combustible or explosive composition, or any substance or combination of substances or particles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of balloons that require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, Day-Glo bombs, any devices containing any explosive or flammable compound or any tablets or other devices containing any explosive substances, except that the term "fireworks" shall not include automobile flares, sparklers or other devices of like construction, paper caps containing not in excess of an average of 0.25 of a grain of explosive content per cap manufactured in accordance with the Interstate Commerce Commission regulations for packing and shipping as provided therein, and toy pistols, toy canes, toy guns or other devices for use of such caps, the same and use of which shall be permitted at all times.

Permissible fireworks means the following small fireworks devices designed to produce audible or visual effects by combustion, complying with the requirements of the United States Consumer Product Safety Commission as set forth in 16 CFR 1500.1 to 1500.272 and 1507.1 to 1507.12, and classified as consumer fireworks UN0336 and UN0337 pursuant to 49 CFR 172.101:

(1) Cylindrical fountains, total pyrotechnic composition not to exceed 75 grams each for a single tube or, when more than one tube is mounted on a common base, a total pyrotechnic composition of no more than 200 grams;

(2) Cone fountains, total pyrotechnic composition not to exceed 50 grams each for a single cone or, when more than one cone is mounted on a common base, a total pyrotechnic composition of no more than 200 grams;

(3) Wheels, total pyrotechnic composition not to exceed 60 grams for each driver unit or 200 grams for each complete wheel;

(4) Ground spinner, a small device containing not more than 20 grams of pyrotechnic composition venting out of an orifice usually in the side of the tube, similar in operation to a wheel, but intended to be placed flat on the ground;

(5) Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed 200 grams each;

(6) Dipped sticks and sparklers, the total pyrotechnic composition of which does not exceed 100 grams, of which the composition of any chlorate or perchlorate shall not exceed five grams;

(7) Any of the following that do not contain more than 50 milligrams of explosive composition:

   a. Explosive auto alarms;

   b. Toy propellant devices;

   c. Cigarette loads;

   d. Strike-on-box matches; or

   e. Other trick noise makers;

(8) Snake or glow worm pressed pellets of not more than two grams of pyrotechnic composition and packaged in retail packages of not more than 25 units;

(9) Fireworks that are used exclusively for testing or research by a licensed explosives laboratory;

(10) Multiple tube devices with:

   a. Each tube individually attached to a wood or plastic base;

   b. The tubes separated from each other on the base by a distance of at least one-half of one inch;

   c. The effect limited to a shower of sparks to a height of no more than 15 feet above the ground;

   d. Only one external fuse that causes all of the tubes to function in sequence; and

   e. A total pyrotechnic composition of no more than 500 grams.

(Code 1994, § 16.40.010; Ord. No. 53, 2019, exh. B, § 16.40.010, 12-17-2019)

Sec. 14-481. Manufacture, sale, use or possession of fireworks.

(a) Pursuant to section 5601.1.3 of the International Fire Code, as adopted by the city at section 22-454, the possession, storage, sale, handling and use of fireworks is illegal except as set forth herein.

(b) The fire department may adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks and retail sale of fireworks within the city.

(1) Such permits may be granted upon application to the fire department.

(2) The department may prescribe reasonable requirements for the issuance of such permits, including, but not limited to, a reasonable fee for such permits, the posting of an appropriate bond, limitation as to the type of fireworks displayed, time and location of such display, requirements concerning the licensure or certification of the operator of the display and disposal of unused fireworks.

(c) Permits issued by the fire department for a public display of fireworks within the city must be reviewed and approved in writing by the chief of police. No permit issued by the fire department shall be valid in the absence of the written approval thereof by the chief of police.

(d) Permissible fireworks may be possessed, stored, sold, handled and used within the city by any individual age 16 years and older.

(Code 1994, § 16.40.020; Ord. No. 53, 2019, exh. B, § 16.40.020, 12-17-2019)

Sec. 14-482. Penalty.

Any person who violates this chapter commits a misdemeanor infraction and shall be punished as provided in chapter 9 of title 1 of this Code.

(Code 1994, § 16.40.030; Ord. No. 53, 2019, exh. B, § 16.40.030, 12-17-2019)

Sec. 14-483. Seizure of illegal fireworks.

The police department or any city police officer shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale or stored or held in violation of this chapter or of the adopted portions of the International Fire Code.

(Code 1994, § 16.40.040; Ord. No. 53, 2019, exh. B, § 16.40.040, 12-17-2019)

Title 15

RESERVED

Title 16

VEHICLES AND TRAFFIC

CHAPTER 1. TRAFFIC CODE

ARTICLE I. GENERALLY

Sec. 16-1. Interpretation; meaning of words.

This title shall be so interpreted and construed as to effectuate its general purpose of conforming to the state's uniform system for the regulation of vehicles and traffic. Article and section headings of the ordinances codified in this chapter, table of contents, index or other printed material in said chapter shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof. Whenever any words and phrases used in this chapter are not defined but are defined in C.R.S. title 42, as amended from time to time, they shall have the meaning ascribed to them in state law.

(Code 1994, § 11.01.101; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-2. Definitions.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Acceleration lane means a speed-change lane, including tapered areas, for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can more safely merge with through traffic.

Alley means a street or highway intended to provide access to the rear or side of lots or buildings in urban areas and not intended for the purpose of through vehicular traffic.

Authorized emergency vehicle means such vehicles of the fire department, police vehicles, ambulances, and other special-purpose vehicles as are publicly owned and operated by or for a governmental agency to protect and preserve life and property in accordance with state laws regulating emergency vehicles; the term "authorized emergency vehicle" also means such privately owned vehicles as are designated by the state motor vehicle licensing agency, necessary to the preservation of life and property, to be equipped and to operate as emergency vehicles in the manner prescribed by state law.

Authorized service vehicle means such highway or traffic maintenance vehicles as are publicly owned and operated on a highway by or for a governmental agency the function of which requires the use of service vehicle warning lights as prescribed by state law and such other vehicles having a public service function, including, but not limited to, public utility vehicles and tow trucks, as determined by the department of transportation under C.R.S. title 42, as amended from time to time. Some vehicles may be designated as both an authorized emergency vehicle and an authorized service vehicle.

Automobile means any motor vehicle.

Bicycle means every vehicle propelled solely by human power applied to pedals upon which any person may ride having two tandem wheels or two parallel wheels and one forward wheel, all of which are more than 14 inches in diameter.

Business district means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including, but not limited to, motels, banks, office buildings, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

Calendar year means the 12 calendar months beginning January 1 and ending December 31 of any year.

Camper coach means an item of mounted equipment, weighing more than 500 pounds, which when temporarily or permanently mounted on a motor vehicle adapts such vehicle for use as temporary living or sleeping accommodations.

Camper trailer means a wheeled vehicle having an overall length of less than 26 feet, without motive power, which is designed to be drawn by a motor vehicle over the public highways and which is generally and commonly used for temporary living or sleeping accommodations.

Chauffeur means every person who is employed for the principal purpose of operating a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

Commercial carrier means any owner of a motor vehicle, truck, truck tractor, trailer or semitrailer used in the business of transporting persons or property over the public highways for profit, hire or otherwise in any business or commercial enterprise.

Controlled-access highway means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

Convicted and *conviction* include conviction in any court of record or any municipal court or acceptance of a penalty assessment notice and payment of the prescribed penalty in accordance with the provisions of article 17 of this chapter.

Court means any municipal court, county court, district court or any court having jurisdiction over offenses against traffic regulations and laws.

Crosswalk means that portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections or any portion of a roadway distinctly indicated for pedestrian crossing by lines or other marking on the surface.

Deceleration lane means a speed-change lane, including tapered areas, for the purpose of enabling a vehicle that is to make an exit turn from a roadway to slow to the safe speed on the ramp ahead after it has left the mainstream of faster moving traffic.

Divided highway means a highway with separated roadways usually for traffic moving in opposite directions, such separation being indicated by depressed dividing strips, raised curbings, traffic islands or other physical barriers so constructed as to impede vehicular traffic or otherwise indicated by standard pavement markings or other official traffic control devices as prescribed in the state traffic control manual.

Drive-away transporter or *tow-away transporter* means every person engaged in the transporting of vehicles which are sold or to be sold and not owned by such transporter, by the drive-away or tow-away methods, where such vehicles are driven, towed or transported singly, or by saddlemount, towbar or fullmount methods, or by any lawful combination thereof.

Driver means every person, including a minor driver under the age of 18 years and a provisional driver under the age of 21 years, who drives or is in actual physical control of a vehicle.

Electric personal assistive mobility device means a three- or four-wheeled device with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less and that is designed to transport physically disabled persons for mobility and any persons necessary to assist and accommodate said physically disabled persons.

Empty weight means the weight of any motor vehicle or trailer or any combination thereof, including the operating body and accessories, as determined by weighing on a scale approved by the state department of transportation.

Explosives and hazardous materials means any substance so defined by 49 CFR ch. 1, as amended from time to time.

Farm tractor means every motor vehicle designed and used primarily as a farm implement for drawing plows and mowing machines and other implements of husbandry.

Flammable liquid means any liquid which has a flash point of 70 degrees Fahrenheit or less, as determined by a Tagliabue or equivalent closed-cup test device.

Foreign vehicle means every motor vehicle, trailer or semitrailer which is brought into the state otherwise than

in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in the state.

Fullmount means a vehicle which is mounted completely on the frame of the first vehicle or last vehicle in a saddlemount combination.

Garage means any public building or place of business for the storage or repair of automobiles.

Golf cart means a self-propelled vehicle not designed primarily for operation on roadways and that has:

(1) A design speed of less than 20 miles per hour;

(2) At least three wheels in contact with the ground;

(3) An empty weight of not more than 1,300 pounds; and

(4) A carrying capacity of not more than four persons.

High occupancy vehicle lane means a lane designated pursuant to the provisions of C.R.S. title 42, as amended from time to time, or this chapter.

Highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purposes of vehicular travel or the entire width of every way declared to be a public highway by any law of the state.

Horn means a signaling device that produces a loud resonant sound capable of emitting sound audible under normal conditions from a distance of not less than 200 feet.

Implement of husbandry means every vehicle which is designed for agricultural purposes. The term "implement of husbandry" also includes equipment used solely for the application of liquid, gaseous and dry fertilizers. Transportation of fertilizer, in or on the equipment used for its application, shall be deemed a part of application if it is incidental to such application. It also includes hay balers, hay stacking equipment, combines, tillage and harvesting equipment, and other heavy movable farm equipment primarily used on farms and not on the highways. Trailers specially designed to move such equipment on highways shall be considered as component parts of such implements of husbandry.

Inattentive manner means the unreasonable failure to maintain a careful lookout in the direction of travel as required to safely operate the vehicle under the prevailing conditions, including, but not limited to, the nature and condition of the roadway, presence of other traffic, presence of pedestrians and weather conditions.

Intersection means the area embraced within the prolongation of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways 30 feet or more apart, every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, every crossing of two roadways of such highways shall be regarded as a separate intersection. The junction of an alley with a street or highway does not constitute an intersection.

Lane means the portion of a roadway for the movement of a single line of vehicles.

Laned highway means a highway the roadway of which is divided into two or more clearly marked lanes for vehicular traffic.

Local authorities means every county, municipal and other local board or body having authority to adopt local police regulations under the constitution and laws of the state.

Low-power scooter means a self-propelled vehicle with not more than three wheels in contact with the ground, no manual clutch and either of the following:

(1) Cylinder capacity not exceeding 50 cubic centimeters if powered by internal combustion; or

(2) Wattage not exceeding 4,476 if powered by electricity. The term "low-power scooter" shall not include a toy vehicle, wheelchair or personal mobility device.

Low-speed electric vehicle means a vehicle that:

(1) Is self-propelled utilizing electricity as its primary propulsion method;

(2) Has at least three wheels in contact with the ground;

(3) Does not use handlebars to steer; and

(4) Exhibits the manufacturer's compliance with 49 C.F.R. 565 or displays a 17-character vehicle identification number as provided in 49 C.F.R. 565.

Manufactured home means any preconstructed building unit or combination of preconstructed building units, without motive power, where such units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle.

Markings means all lines, patterns, words, colors or other devices, except signs, set into the surface of, applied upon or attached to the pavement or curbing or to objects within or adjacent to the roadway, conforming to the state traffic control manual and officially placed for the purpose of regulating, warning or guiding traffic.

Median means any area of a street, roadway, or public driveway defined by painted, raised, or depressed channelization barriers or markers, usually in the middle of the roadway, at driveways, or at intersections, which control turning movements or separate traffic lanes.

Metal tires means all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

Mobile machinery or *self-propelled construction equipment* means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally-operated or moved over the public highways. This definition, includes, but is not limited to, wheeled vehicles commonly used in the construction, maintenance and repair of roadways, the drilling of wells and the digging of ditches.

Motor home means a vehicle designed to provide temporary living quarters and which is built into, as an integral part of or a permanent attachment to, a motor vehicle chassis or van.

Motor vehicle means any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle, including golf carts owned by a governmental entity when in use in conjunction with authorized governmental activities, except that the term "motor vehicle" does not include low-power scooters, wheelchairs, or vehicles moved solely by human power. For the purposes of the offenses described in C.R.S. title 42, as amended from time to time, for farm tractors operated on streets and highways, the term "motor vehicle" includes a farm tractor that is not otherwise classified as a motor vehicle.

Motorcycle means every motor vehicle that uses handlebars to steer and is designed to travel on not more than three wheels in contact with the ground, except that the term does not include a farm tractor or low-power scooter.

Motorized play vehicle means a coaster, scooter, any other alternatively fueled device or other motorized vehicle that is self-propelled by a motor engine, gas or electric, and is not otherwise defined in this Code as a low-powered scooter, motor vehicle, motorcycle, motorized bicycle, motorscooter, motorbicycle, motorized skateboard, electric personal assistive mobility device or motorized wheelchair.

Motorized skateboard means a self-propelled device, including Segways, that has a motor, gas or electric, a deck upon which a person may ride, not equipped with a seat, and at least two tandem wheels in contact with the ground and which is not otherwise defined in this Code as a motor vehicle, motorcycle, motor-driven cycle, motorized bicycle, motorized play vehicle, motorscooter, electric personal assistive mobility device or motorized wheelchair.

Motorized wheelchair means a self-propelled wheelchair that is used by a physically disabled person for

mobility.

Motorscooter and *motorbicycle* means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term farm tractor, as defined in this section, and any motorized bicycle, which motor vehicle is powered by an engine of not to exceed six-brake horsepower.

Mounted equipment means any item of tangible personal property weighing more than 500 pounds which is rigidly mounted on or attached to a vehicle subsequent to its manufacture and which, when so mounted on or attached to a vehicle, becomes an integral part thereof essential to the operation of such vehicle in carrying out and accomplishing the purpose for which such vehicle is being used.

Noncommercial or *recreational vehicle* means a truck operated singly or in combination with a trailer or utility trailer when the truck does not exceed 6,500 pounds or a motor home, which truck or motor home is used exclusively for pleasure, enjoyment, other recreational purposes or family transportation of the owner, lessee or occupant and is not used to transport cargo or passengers for profit, hire or otherwise in any business or commercial enterprise.

Nonresident means every person who is not a resident of the state.

Off-highway vehicle shall have the same meaning as set forth in C.R.S. title 33, as amended from time to time.

Official traffic control devices means all signs, signals, markings and devices, not inconsistent with this chapter, placed or displayed by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

Official traffic control signal means any device, whether manually, electrically or mechanically-operated, by which traffic is alternately directed to stop and to proceed.

Owner means a person who holds the legal title of a vehicle; or, if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of C.R.S. title 42, arts. 1 to 4 or this chapter. The term "owner" also includes parties otherwise having lawful use or control or the right to use or control a vehicle for a period of 30 days or more.

Park or *parking* means the standing of a vehicle, whether occupied or not, other than very briefly for the purpose of and while actually engaged in loading or unloading property or passengers.

Parkway means the area between the street or curb and sidewalk or any pedestrian or recreation pathway. This includes landscaped or paved areas.

Pedestrian means any person afoot.

Person means every natural person, firm, copartnership, association or corporation.

Pneumatic tires means all tires inflated with compressed air.

Pole, *pipe trailer* or *dolly* means every vehicle of the trailer type having one or more axles not more than 48 inches apart and two or more wheels used in connection with a motor vehicle solely for the purpose of transporting poles or pipes and connected with the towing vehicle both by chain, rope or cable and by the load without any part of the weight of said dolly resting upon the towing vehicle. All the registration provisions of C.R.S. title 42, arts. 1 to 4, shall apply to every pole, pipe trailer or dolly.

Police officer means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or *driveway* means every road or driveway not open to the use of the public for the purposes of vehicular travel.

Railroad sign or signal means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

Reasonable and prudent control means operating a motor vehicle in a well-controlled manner.

Reconstructed vehicle means any vehicle which has been assembled or constructed largely by means of

essential parts, new or used, derived from other vehicles or makes of vehicles of various names, models and types or which, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

Resident means any person who owns or operates any business in the state or any person who has resided within the state continuously for a period of 90 days or has obtained gainful employment within the state, whichever shall occur first.

Residential district means the territory contiguous to and including a highway not comprising a business district when the frontage on such highway for a distance of 300 feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

Right-of-way means the right of one vehicle operator or pedestrian to proceed in a lawful manner in preference to another vehicle operator or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

Road means any highway.

Road tractor means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon independently or any part of the weight of a vehicle or load so drawn.

Roadway means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm or shoulder even though such sidewalk, berm or shoulder is used by persons riding bicycles or other human-powered vehicles and exclusive of that portion of a highway designated for exclusive use as a bicycle path or reserved for the exclusive use of bicycles, human-powered vehicles or pedestrians. In the event that a highway includes two or more separate roadways, the term "roadway" refers to any such roadway separately but not to all such roadways collectively.

Safety zone means the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

School bus means every motor vehicle which is owned by a public or governmental agency and operated for the transportation of children to or from school or which is privately-owned and operated for compensation, but it does not include informal or intermittent arrangements, such as sharing of actual gasoline expense or participation in a car pool, for the transportation of children to or from school.

Semitrailer means any wheeled vehicle, without motive power, which is designed to be used in conjunction with a truck tractor so that some part of its own weight and that of its cargo load rests upon or is carried by such truck tractor and which is generally and commonly used to carry and transport property over the public highways.

Sidewalk means that portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

Snow emergency means the period of time established by the director of public works or his designee when it is necessary to restrict parking on snow emergency routes to allow for the plowing and/or removal of snow.

Snowplow means any vehicle originally designed for highway snow and ice removal or control or subsequently adapted for such purposes which is operated by or for the state or any political subdivision thereof.

Solid rubber tires means every tire made of rubber other than a pneumatic tire.

Specially constructed vehicle means any vehicle which has not been originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles.

Stand or *standing* means the halting of a vehicle, whether occupied or not, other than momentarily for the purpose of and while actually engaged in receiving or discharging passengers.

State means a state, territory, organized or unorganized, or district of the United States.

State motor vehicle licensing agency means the motor vehicle division of the department of revenue.

State traffic control manual means the most recent edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, including any supplement thereto, as adopted by the transportation commission.

Steam and electric trains includes:

(1) The term "railroad," which means a carrier of persons or property upon cars, other than street cars, operated upon stationary rails;

(2) The term "railroad train," which means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;

(3) The term "streetcar," which means a car other than a railroad train for transporting persons or property upon rails principally within a municipality.

Stinger-steered means a semitrailer combination configuration wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit.

Stop or *stopping* means, when prohibited, any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

Stop line or *limit line* means a line which indicates where drivers shall stop when directed by an official traffic control device or a police officer.

Through highway means every highway or portion thereof on which vehicular traffic is given preferential right-of-way and at the entrances to which other vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield sign or other official traffic control device when such signs or devices are erected as provided by law.

Traffic means pedestrians, ridden or herded animals, and vehicles, streetcars and other conveyances either singly or together while using any highway for the purposes of travel.

Trailer means any wheeled vehicle, without motive power and having an empty weight of more than 2,000 pounds, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways.

Trailer coach means any wheeled vehicle having an overall width not exceeding eight feet and an overall length, excluding towing gear and bumpers, of not less than 26 feet and not more than 40 feet, without motive power, which is designed and generally and commonly used for occupancy by persons for residential purposes, in temporary locations and which may occasionally be drawn over the public highways by a motor vehicle and is licensed as a vehicle.

Transporter means every person engaged in the business of delivering vehicles of a type required to be registered under C.R.S. title 42, arts. 1 to 4, from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer.

Truck means any motor vehicle equipped with a body designed to carry property and which is generally and commonly used to carry and transport property over the public highways.

Truck tractor means any motor vehicle which is generally and commonly designed and used to draw a semitrailer and its cargo load over the public highways.

Utility trailer means any wheeled vehicle weighing 2,000 pounds or less, without motive power, which is designed to be drawn by a motor vehicle and which is generally and commonly used to carry and transport personal effects, articles of household furniture, loads of trash and rubbish, or not to exceed two horses over the public highways.

Vehicle means any device that is capable of moving itself or of being moved from place to place upon wheels or endless tracks. The term "vehicle" includes any bicycle, but does not include any wheelchair or any off-highway vehicle, snowmobile or farm tractor, or any highway vehicle, snowmobile, farm tractor or any implement of husbandry designed primarily or exclusively for use and used in agricultural operations or any device moved exclusively over stationary rails or tracks or designed to move primarily through the air.

Warning device shall have the same meaning as the term "horn" as set forth in this section.

Wheelchair means a motorized or nonmotorized wheeled device designed for use by a person with a physical

disability.

(Code 1994, § 11.01.102; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 20, 2005, §§ 1, 3, 3-15-2005; Ord. No. 08, 2011, § 1, 2-15-2011; Ord. No. 51, 2011, § 1, 12-20-2011; Ord. No. 9, 2016, § 1(exh. A), 4-19-2016; Ord. No. 24, 2015, § 1(exh. A), 7-7-2015)

Sec. 16-3. Applicability.

This chapter applies to every street, alley, sidewalk area, driveway, park and every other public way, public place or public parking area, either within or outside the corporate limits of the city, the use of which the city has jurisdiction and authority to regulate. The provisions of sections 16-459, 16-460, 16-468, 16-472, and 16-533 and 16-683, respectively concerning reckless driving, careless driving, no insurance, eluding an officer and accident investigation, and parking privileges for persons with disabilities apply not only to public places and ways but also throughout the city.

(Code 1994, § 11.01.103; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 12, 2019, exh. D, § 11.01.103, 3-19-2019)

Sec. 16-4. Subject matter; purpose.

The subject matter of this traffic code relates primarily to comprehensive traffic-control regulations for the city. The purpose of this chapter and the Code adopted hereby is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the state and nation.

(Code 1994, § 11.01.104; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-5. Local traffic control devices.

Municipal authorities shall place and maintain such traffic control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances to regulate, warn or guide traffic, subject in the case of state highways to the provisions of C.R.S. titles 42 and 43, as amended from time to time. All such traffic control devices shall conform to the state manual and specifications for statewide uniformity as provided in C.R.S. title 42, as amended from time to time.

(Code 1994, § 11.01.105; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-6. Who may restrict right to use highways.

(a) The city may, with respect to highways under its jurisdiction, by ordinance or resolution prohibit the operation of vehicles upon any such highway or impose restrictions as to the weight of vehicles to be operated upon any such highway, for a total period of not to exceed 90 days in any one calendar year, whenever any said highway by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

(b) After enacting any such ordinance, signs designating the permissible weights shall be erected and maintained.

(c) The city, with respect to highways under its jurisdiction, may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles on designated highways or may impose limitations as to the weight thereof, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

(Code 1994, § 11.01.106; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-7. Obedience to police officers.

No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control or regulate traffic.

(Code 1994, § 11.01.107; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-8. Public officers to obey provisions; exceptions for emergency vehicles.

(a) The provisions of this chapter are applicable to the drivers of vehicles upon the highways and shall apply to the drivers of all vehicles owned or operated by the United States, the state or any county, city, town, district or other political subdivision of the state, subject to such specific exceptions as are set forth in this chapter with

reference to authorized emergency vehicles.

(b) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated in this chapter. The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this chapter or state law;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the lawful speeds set forth in subsection 16-351(b) or exceed the maximum lawful speed limits set forth in subsection 16-351(d) so long as said driver does not endanger life or property;

(4) Disregard regulations governing directions of movement or turning in specified directions.

(c) The exemptions granted in subsections (2) to (4) of subsection (b) of this section to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of section 16-46, and the exemption granted in subsection (b)(1) of this section shall apply only when such vehicle is making use of visual signals meeting the requirements of section 16-46 unless using such visual signals would cause an obstruction to the normal flow of traffic; except that an authorized emergency vehicle being operated as a police vehicle while in actual pursuit of a suspected violator of any provision of this chapter need not display or make use of audible and visual signals so long as such pursuit is being made to obtain verification of or evidence of the guilt of the suspected violator. Nothing in this section shall be construed to require an emergency vehicle to make use of audible signals when such vehicle is not moving, whether or not the vehicle is occupied.

(d) The provisions of this section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of such driver's reckless disregard for the safety of others.

(Code 1994, § 11.01.108; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-9. Low-power scooters, animals, skis, skates, toy vehicles and all-terrain recreational vehicles on highways.

(a) A person riding a low-power scooter upon a roadway where low-power scooter travel is permitted shall be granted all of the rights and shall be subject to all of the duties and penalties applicable to the driver of a vehicle, as set forth in this chapter, except those provisions of this chapter that, by their very nature, can have no application.

(b) A person riding a low-power scooter shall not ride other than upon or astride a permanent and regular seat attached thereto.

(c) No low-power scooter shall be used to carry more persons at one time than the number for which it is designed and equipped.

(d) No person riding upon any low-power scooter, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

(e) A person operating a low-power scooter upon a roadway shall ride as close to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(f) Persons riding low-power scooters upon a roadway shall not ride more than two abreast.

(g) A person under the age of 18 years of age may not operate or carry a passenger who is under 18 years of age on a low-power scooter unless the person and the passenger are wearing protective helmets.

(h) Persons riding or leading animals on or along any highway shall ride or lead such animals on the left side of said highway, facing approaching traffic. This shall not apply to persons driving herds of animals along highways.

(i) No person shall use the highways for traveling on skis, toboggans, coasting sleds, skates or similar devices. It is unlawful for any person to use any roadway of the state as a sled or ski course for the purpose of coasting on sleds, skis or similar devices. It is also unlawful for any person upon roller skates or riding in or by means of any coaster, toy vehicle or similar device to go upon any roadway except while crossing a highway in a

crosswalk, and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This subsection (i) does not apply to any public way which is set aside by proper authority as a play street and which is adequately roped off or otherwise marked for such purpose.

(j) Every person riding or leading an animal or driving any animal-drawn conveyance upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.

(k) Where suitable bike paths, horseback trails or other trails have been established on the right-of-way or parallel to and within one-fourth mile of the right-of-way of heavily traveled streets and highways, the department of transportation may, subject to the provisions of C.R.S. title 43, as amended from time to time, by resolution or order entered in its minutes, and local authorities may, where suitable bike paths, horseback trails or other trails have been established on the right-of-way or parallel to it within 450 feet of the right-of-way of heavily traveled streets, by ordinance, determine and designate, upon the basis of an engineering and traffic investigation, those heavily traveled streets and highways upon which shall be prohibited any bicycle, animal rider, animal-drawn conveyance or other class or kind of nonmotorized traffic which is found to be incompatible with the normal and safe movement of traffic, and, upon such a determination, the department of transportation or local authority shall erect appropriate official signs giving notice thereof; except that with respect to controlled access highways the provisions of C.R.S. title 42, as amended from time to time, shall apply. When such official signs are so erected, no person shall violate any of the instructions contained thereon.

(l) The parent of any child or guardian of any ward shall not authorize or knowingly permit any child or ward to violate any provision of this section.

(Code 1994, § 11.01.109; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-10. Low-speed electric vehicles.

(a) A low-speed electric vehicle may be operated only on a roadway that has a speed limit equal to or less than 35 miles per hour; except that it may be operated to directly cross a roadway that has a speed limit greater than 35 miles per hour at an at-grade crossing to continue traveling along a roadway with a speed limit equal to or less than 35 miles per hour.

(b) No person shall operate a low-speed electric vehicle on a limited access highway.

(c) Golf cars shall not be operated on any public way designed primarily for motor vehicle traffic.

(Code 1994, § 11.01.109.5; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-11. Motorized play vehicle; prohibitions; disclosure requirements.

(a) Subject to subsection (b) of this section, no motorized play vehicle may be operated on any public or private street, public or private roadway, public or private sidewalk, public or private park, public or private parking lot, public or private trail, public or private bikeway, public or private bicycle path, public or private shared use path and all other public property.

(b) Except for private roads, private sidewalks, private parks and private parking lots, motorized play vehicles may be operated on any private property with the written permission of the owner, the person entitled to immediate possession of the property or the authorized agent of either. No motorized play vehicles may be operated on any private road, private sidewalk, private park or private parking lot, regardless of whether or not said operator has received written permission from the owner.

(c) No person shall operate a motorized play vehicle on any private property in a manner causing excessive, unnecessary or offensive noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to a reasonable person of normal sensitivity.

(d) The parent, guardian or legal custodian of any minor shall not authorize or knowingly permit such minor to violate any of the provisions of this section.

(e) It is unlawful for any vendor or merchant to sell motorized play vehicles without making disclosures required by this section. Any merchant or vendor who sells motorized play vehicles within the city shall:

(1) Post in a prominent place at each location where motorized play vehicles are on display a notice, on a

sign not less than 96 square inches and visible to the public, stating that operation of motorized play vehicles:

a. Is prohibited on any public or private street, public or private sidewalk, private or public roadway, private or public highway or any part of a highway, bikeway, bicycle path, trail, shared use path or park in the city.

b. Is allowed to be used on private property with the owner's written permission, except for private property consisting of a private parking lot, private park, private road or private sidewalk.

(2) Provide a copy of such notice to each purchaser of a motorized play vehicle, either before or in connection with the purchase of a motorized play vehicle. If the purchaser is a minor, a receipt of said notice must be signed by the minor's parent or legal guardian.

(f) Any motorized play vehicle owned by a governmental entity and which is operated in the performance of authorized duties or activities is exempt from the provisions of this chapter.

(g) Violations of any of the provisions of this section shall, upon conviction thereof, be punished by a fine not to exceed $300.00 per violation; each provision herein is a separate offense; and each day a provision is violated is a separate offense.

(h) Temporary suspension of all or part of this section may be granted by the city manager, subject to conformance with the city's written criteria standards. The standards shall be available for inspection at both the city manager's office and city clerk's office.

(Code 1994, § 11.01.109.8; Ord. No. 20, 2005, § 2, 3-15-2005; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-12. Provisions uniform throughout city.

(a) The provisions of this chapter shall be applicable and uniform throughout the city.

(b) The city shall regulate and enforce all traffic and parking restrictions on streets which are state highways as provided in C.R.S. titles 42 and 43, as amended from time to time.

(c) The city may enact, adopt or enforce traffic regulations which cover the same subject matter as the various sections of this chapter or state law and such additional regulations as are included in C.R.S. title 42, as amended from time to time.

(d) The municipal court shall have jurisdiction over violations of traffic regulations enacted or adopted by city council, except that the parking referee shall have jurisdiction over those violations set forth in chapter 2 of this title.

(Code 1994, § 11.01.110; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011; Ord. No. 12, 2019, exh. D, § 11.01.110, 3-19-2019)

Sec. 16-13. Duties and powers of traffic superintendent.

(a) The position of traffic superintendent is hereby established in the department of public works. The traffic superintendent shall be appointed by the director of the department of public works and shall exercise the powers and duties provided in this chapter consistent with the provisions of this Code relating to the department of public works. In the absence of such appointment or at such times as the traffic superintendent may be absent from the city or unable to perform his duties, the said duties are and shall be vested in the director of the department of public works.

(b) It shall be the general duty of the traffic superintendent or other official vested with the responsibility for traffic, as provided herein, to determine the installation and proper timing and maintenance of official traffic control devices, to conduct analyses of traffic accidents and to devise remedial or corrective measures, to conduct investigation of traffic conditions, to plan the operation of traffic on the streets and highways of the city and to cooperate with other municipal officials in the development of ways and means to improve traffic conditions, and to carry out such additional powers and duties as are imposed by this chapter.

(c) By way of example, but not by way of limitation, the traffic superintendent or other official vested with the office as provided herein is hereby empowered and authorized, consistent with the provisions of this chapter, to

act as follows:

(1) Install, maintain and remove traffic control devices;

(2) Designate and mark medians and traffic islands;

(3) Conduct speed zoning studies and post speed limits as permitted by law;

(4) Designate minimum speed as provided by law;

(5) Regulate speed and traffic movement by traffic signals and provide for the synchronization of such signals wherever practicable;

(6) Designate one-way streets and roadways;

(7) Designate through streets or roadways and control entrances thereto;

(8) Designate stop or yield intersections and erect stop or yield signs thereat;

(9) Establish restrictions, prohibitions and regulations for the parking, standing or stopping of vehicles;

(10) Designate special parking zones for taxicabs, press, television, radio cars and the like;

(11) Designate parking meter zones and establish time limitations thereon based on an engineering and traffic investigation;

(12) Establish tow-away zones;

(13) Designate upon what streets, if any, angle parking shall be permitted;

(14) Designate and sign intersections at which drivers shall not make a right or left turn, a U-turn or any turn at all times or during certain times;

(15) Designate and sign intersections where multiple turns shall be allowed;

(16) Mark centerlines and lane lines and place other pavement markings necessary for the regulation and control of traffic;

(17) Install and maintain crosswalks at intersections or other places where there is particular danger to pedestrians crossing the roadway;

(18) Establish safety zones at such places where necessary for pedestrian protection;

(19) Install pedestrian-control signals and designate those crossings where angle crossing by pedestrians shall be permitted;

(20) Establish truck routes and truck loading zones; establish bus stops and taxicab stands;

(21) Designate and sign those streets and roadways where pedestrians, bicyclists or other nonmotorized traffic, or persons operating a motor-driven cycle shall be excluded as provided by law;

(22) Designate and sign those streets upon which vehicles or loads of a certain weight shall be prohibited;

(23) Provide for temporary street or alley closures by the erection of barricades;

(24) Issue special permits for curb loading operations, for the movement of vehicles having excess size or weight, for parades or processions, etc.;

(25) Designate and sign those pedestrian areas in which nonmotorized vehicles such as skateboards, scooters, bicycles, etc., are prohibited. Operation of such nonmotorized vehicles where prohibited by such posted signs shall be a violation of this section, subject to the penalties prescribed by chapter 9 of title 1 of this Code, except that no jail sentence is authorized for such a violation.

a. This subsection shall not apply to city parks.

b. This subsection shall not authorize any restriction on handicapped vehicles such as wheelchairs.

(Code 1994, § 11.01.111; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-14. Noninterference with the rights of owners of realty.

Subject to the exception provided in section 16-3, nothing in this chapter shall be construed to prevent the owner of real property used by the public for the purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use, or from requiring other or different or additional conditions than those specified in this chapter, or from otherwise regulating such use as may seem best to such owner.

(Code 1994, § 11.01.112; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-15. Restrictions for minor drivers.

(a) (1) Except as provided in subsection (3) of this subsection (a), a minor driver shall not operate a motor vehicle containing a passenger who is under 21 years of age and who is not a member of the driver's immediate family until such driver has held a valid driver's license for at least six months.

(2) Except as provided in subsection (3) of this subsection (a), a minor driver shall not operate a motor vehicle containing more than one passenger who is under 21 years of age and who is not a member of the driver's immediate family until such driver has held a valid driver's license for at least one year.

(3) Subsections (1) and (2) of this subsection (a) shall not apply if:

a. The motor vehicle contains the minor's parent or legal guardian or other responsible adult described in C.R.S. title 42, as amended from time to time;

b. The motor vehicle contains an adult 21 years of age or older who currently holds a valid driver's license and has held such license for at least one year;

c. The passenger who is under 21 years of age is in the vehicle on account of a medical emergency;

d. All passengers who are under 21 years of age are members of the driver's immediate family and all such passengers are wearing a seatbelt.

(b) (1) Except as provided in subsection (2) of this subsection (b), a minor driver shall not operate a motor vehicle between 12:00 midnight and 5:00 a.m. until such driver has held a driver's license for at least one year.

(2) This subsection (b) shall not apply if:

a. The motor vehicle contains the minor's parent or legal guardian or other responsible adult described in C.R.S. title 42, as amended from time to time;

b. The motor vehicle contains an adult 21 years of age or older who currently holds a valid driver's license and has held such license for at least one year;

c. The minor is driving to school or a school-authorized activity when the school does not provide adequate transportation, so long as the driver possesses a signed statement from the school official containing the date the activity will occur;

d. The minor is driving on account of employment when necessary, so long as the driver possesses a signed statement from the employer verifying employment;

e. The minor is driving on account of a medical emergency; or

f. The minor is an emancipated minor.

(c) For the purposes of this section:

(1) The term "emancipated minor" means an individual under 18 years of age whose parents or guardian has surrendered parental responsibilities, custody and the right to the care and earnings of such person and is no longer under a duty to support such person.

(2) The term "minor driver" means a person who is operating a motor vehicle and who is under 18 years of age.

(d) No driver in a motor vehicle shall be cited for a violation of this section unless such driver was stopped by a law enforcement officer for an alleged violation of articles I through IV of this chapter other than a violation of this section.

(Code 1994, § 11.01.116; Ord. No. 08, 2011, § 1, 2-15-2011; Ord. No. 51, 2011, § 1, 12-20-2011)

Secs. 16-16--16-33. Reserved.

~~PART 2~~ ARTICLE II. EQUIPMENT

Sec. 16-34. Obstruction of view or driving mechanism; hazardous situation.

(a) No person shall drive a vehicle when it is so loaded or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No person shall knowingly drive a vehicle while any passenger therein is riding in any manner which endangers the safety of such passenger or others.

(c) No person shall drive any motor vehicle equipped with any television viewer, screen or other means of visually receiving a television broadcast which is located in the motor vehicle at any point forward of the back of the driver's seat or which is visible to the driver while operating the motor vehicle. The provisions of this subsection (c) shall not be interpreted to prohibit the usage of any computer, data terminal or other similar device in a motor vehicle.

(d) No vehicle shall be operated upon any highway unless the driver's vision through any required glass equipment is normal and unobstructed.

(e) No passenger in a vehicle shall ride in such position as to create a hazard for such passenger or others, or to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle; nor shall the driver of a vehicle permit any passenger therein to ride in such manner.

(f) No person shall hang on or otherwise attach himself to the outside, top, hood or fenders of any vehicle, or to any other portion thereof, other than the specific enclosed portion of such vehicle intended for passengers or while in a sitting position in the cargo area of a vehicle if such area is fully or partially enclosed on all four sides, while the same is in motion; nor shall the operator knowingly permit any person to hang on or otherwise attach himself to the outside, top, hood or fenders of any vehicle, or any other portion thereof, other than the specific enclosed portion of such vehicle intended for passengers or while in a sitting position in the cargo area of a vehicle if such area is fully or partially enclosed on all four sides, while the same is in motion. This subsection (f) shall not apply to parades, caravans or exhibitions which are officially authorized or otherwise permitted by law.

(g) The provisions of subsection (f) of this section shall not apply to a vehicle owned by the United States government or any agency or instrumentality thereof, or to a vehicle owned by the state or any of its political subdivisions, or to a privately owned vehicle when operating in a governmental capacity under contract with or permit from any governmental subdivision or under permit issued by the public utilities commission of the state, when in the performance of their duties persons are required to stand or sit on the exterior of the vehicle and said vehicle is equipped with adequate handrails and safeguards.

(Code 1994, § 11.01.201; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-35. Unsafe vehicles; penalty.

(a) It is unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this section and sections 16-37 to 16-64 and article III of this chapter, or which is equipped in any manner in violation of said sections and article III of this chapter or for any person to do any act forbidden or fail to perform any act required under said sections and article III of this chapter.

(b) The provisions of this section and sections 16-37 to 16-64 and article III of this chapter, with respect to equipment on vehicles shall not apply to implements of husbandry or farm tractors, except as made applicable in said sections and part.

(c) Nothing in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle, consistent with the provisions of this chapter or state law.

(Code 1994, § 11.01.202; Ord. No. 80, 1997, § 2, 12-16-1997)

~~**Editor's note**—subsection 11.01.202(4) has been moved and is now section 11.01.1414.~~

Sec. 16-36. Unsafe vehicles; spot inspections.

(a) Uniformed police officers, at any time upon reasonable cause, may require the driver of a vehicle to stop and submit such vehicle and its equipment to an inspection and such test with reference thereto as may be appropriate. The fact that a vehicle is an older model vehicle shall not alone constitute reasonable cause. In the event such vehicle is found to be in an unsafe condition or the required equipment is not present or is not in proper repair and adjustment, the officer may give a written notice and issue a summons to the driver. Said notice shall require that such vehicle be placed in safe condition and properly equipped or that its equipment be placed in proper repair and adjustment, the particulars of which shall be specified on said notice.

(b) In the event any such vehicle is, in the reasonable judgment of such police officer, in such condition that further operation would be hazardous, the officer may require, in addition to the instructions set forth in subsection (a) of this section, that the vehicle be moved at the operator's expense and not operated under its own power or that it be driven to the nearest garage or other place of safety.

(c) Every owner or driver upon receiving the notice and summons issued pursuant to subsection (1) of this section or mailed pursuant to subsection (b) of subsection (4) of this section shall comply therewith and shall secure a certification upon such notice by a law enforcement officer that such vehicle is in safe condition and its equipment has been placed in proper repair and adjustment and otherwise made to conform to the requirements of this chapter. Said certification shall be returned to the owner or driver for presentation in court as provided for in subsection (d)(4) of this section.

(d) (1) a. Except as provided for in subsubsection (1)(b) or (1)(c) of this subsection (d), any owner receiving written notice and a summons pursuant to this section is guilty of a traffic offense and, upon conviction thereof, shall be punished by a fine.

b. If the owner repairs the unsafe condition or installs or adjusts the required equipment within 30 days after issuance of the notice and summons and presents the certification required in subsection (d)(4) of this section to the court of competent jurisdiction, he shall be punished pursuant to chapter 9 of title 1 of this Code.

c. If the owner submits to the court of competent jurisdiction within 30 days after the issuance of the summons proof that he has disposed of the vehicle for junk parts or immobilized the vehicle and he also submits to the court the registration and license plates for the vehicle, he shall be punished pursuant to chapter 9 of title 1 of this Code. If the owner wishes to relicense the vehicle in the future, he must obtain the certification required in subsection (d)(4) of this section.

(2) a. Except as provided for in subsubsection b of this subsection (2), any nonowner driver receiving written notice and a summons pursuant to this section is guilty of a traffic offense and, upon conviction thereof, shall be punished by a fine.

b. If the driver submits to the court of competent jurisdiction within 30 days after the issuance of the summons proof that he was not the owner of the car at the time the summons was issued and that he mailed, within five days of issuance thereof, a copy of the notice and summons by certified mail to the owner of the vehicle at the address on the registration, he shall be punished pursuant to chapter 9 of title 1 of this Code.

(3) Upon a showing of good cause that the required repairs or adjustments cannot be made within 30 days after issuance of the notice and summons, the court of competent jurisdiction may extend the period of time for installation or adjustment of required equipment as may appear justified.

(4) The owner may, in lieu of appearance, submit to the court of competent jurisdiction, within 30 days after the issuance of the notice and summons, the certification specified in subsection (3) of this section and the appropriate fine as determined by the court.

(Code 1994, § 11.01.203; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-37. When lighted lamps are required.

(a) Every vehicle upon a highway within the city, between sunset and sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead, shall display lighted lamps and illuminating devices as required by this chapter for different classes of vehicles, subject to exceptions with respect to parked vehicles.

(b) Whenever requirement is declared by this chapter as to distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in subsection (a) of this section in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions, unless a different time or condition is expressly stated.

(c) Whenever requirement is declared by this chapter as to the mounted height of lamps or devices, it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

(Code 1994, § 11.01.204; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-38. Head lamps on motor vehicles.

(a) Every motor vehicle other than a motorcycle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in sections 16-35 and 16-37 through 16-64 where applicable.

(b) Every motorcycle shall be equipped with at least one and not more than two head lamps that shall comply with the requirements and limitations of sections 16-35 and 16-37 through 16-64.

(c) Every head lamp upon every motor vehicle, including every motorcycle, shall be located at a height measured from the center of the head lamp of not more than 54 inches nor less than 24 inches, to be measured as set forth in subsection 16-37(c).

(Code 1994, § 11.01.205; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-39. Tail lamps and reflectors.

(a) Every motor vehicle, trailer, semitrailer and pole trailer and any other vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one tail lamp mounted on the rear which, when lighted as required in section 16-37, shall emit a red light plainly visible from a distance of 500 feet to the rear; but, in the case of a train of vehicles, only the tail lamp on the rear-most vehicle need actually be seen from the distance specified. Furthermore, every such vehicle registered in the state and manufactured or assembled after January 1, 1958, shall be equipped with at least two tail lamps mounted on the rear, on the same level and as widely spaced laterally as practicable, which, when lighted as required in section 16-36, shall comply with the provisions of this section.

(b) Every tail lamp upon every vehicle shall be located at a height of not more than 72 inches nor less than 20 inches.

(c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

(d) Every motor vehicle operated on and after January 1, 1958, upon a highway in the city shall carry on the rear, either as part of a tail lamp or separately, one red reflector meeting the requirements of this section; except that vehicles of the type mentioned in section 16-40 shall be equipped with reflectors as required in those sections applicable thereto.

(e) Every new motor vehicle sold and operated on and after January 1, 1958, upon a highway shall carry on the rear, whether as a part of the tail lamps or separately, two red reflectors; except that every motorcycle shall carry at least one reflector meeting the requirements of this section, and vehicles of the type mentioned in section 16-40 shall be equipped with reflectors as required in those sections applicable thereto.

(f) Every reflector shall be mounted on the vehicle at a height of not less than 20 inches nor more than 60

inches, measured as set forth in subsection 16-37(c) and shall be of such size and characteristics and so mounted as to be visible at night from all distances within 350 feet to 100 feet from such vehicle when directly in front of lawful upper beams and head lamps; except that visibility from a greater distance is required by law of reflectors on certain types of vehicles.

(Code 1994, § 11.01.206; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-40. Clearance and identification.

(a) Every vehicle designed or used for the transportation of property or for the transportation of persons shall display lighted lamps at the times mentioned in section 16-37 when and as required in this section.

(b) Clearance lamps.

(1) Every motor vehicle or motor-drawn vehicle having a width at any part in excess of 80 inches shall be equipped with four clearance lamps located as follows:

a. Two on the front and one at each side, displaying an amber light visible from a distance of 500 feet to the front of the vehicle;

b. Two on the rear and one at each side, displaying a red light visible only to the rear and visible from a distance of 500 feet to the rear of the vehicle, which said rear clearance lamps shall be in addition to the rear red lamp required in section 16-36.

(2) All clearance lamps required shall be placed on the extreme sides and located on the highest stationary support; except that, when three or more identification lamps are mounted on the rear of a vehicle on the vertical center line and at the extreme height of the vehicle, rear clearance lamps may be mounted at optional height.

(3) Any trailer, when operated in conjunction with a vehicle which is properly equipped with front clearance lamps as provided in this section, may be, but is not required to be, equipped with front clearance lamps if the towing vehicle is of equal or greater width than the towed vehicle.

(4) All clearance lamps required in this section shall be of a type approved by the department of revenue.

(c) Side marker lamps.

(1) Every motor vehicle or motor-drawn vehicle or combination of such vehicles which exceeds 30 feet in overall length shall be equipped with four side marker lamps located as follows:

a. One on each side near the front displaying an amber light visible from a distance of 500 feet to the side of the vehicle on which it is located;

b. One on each side near the rear displaying a red light visible from a distance of 500 feet to the side of the vehicle on which it is located; but the rear marker light shall not be so placed as to be visible from the front of the vehicle.

(2) Each side marker lamp required shall be located not less than 15 inches above the level on which the vehicle stands.

(3) If the clearance lamps required by this section are of such a design as to display lights visible from a distance of 500 feet at right angles to the sides of the vehicles, they shall be deemed to meet the requirements as to marker lamps in this subsection.

(4) All marker lamps required in this section shall be of a type approved by the department of revenue.

(d) Clearance reflectors:

(1) Every motor vehicle having a width at any part in excess of 80 inches shall be equipped with clearance reflectors located as follows:

a. Two red reflectors on the rear and one at each side, located not more than one inch from the extreme outside edges of the vehicle;

b. All such reflectors shall be located not more than 60 inches nor less than 15 inches above the level on which the vehicle stands.

(2) One or both of the required rear red reflectors may be incorporated within the tail lamp or tail lamps if any such tail lamps meet the location limits specified for reflectors.

(3) All such clearance reflectors shall be of a type approved by the department of revenue.

(e) Side marker reflectors:

(1) Every motor vehicle or motor-drawn vehicle or combination of vehicles which exceeds 30 feet in overall length shall be equipped with four side marker reflectors located as follows:

a. One amber reflector on each side near the front;

b. One red reflector on each side near the rear.

(2) Each side marker reflector shall be located not more than 60 inches nor less than 15 inches above the level on which the vehicle stands.

(3) All such side marker reflectors shall be of a type approved by the department of revenue.

(f) Nothing in this section shall be construed to supersede any federal motor vehicle safety standard established pursuant to the National Traffic and Motor Vehicle Safety Act of 1966, public law 89-563, as amended.

(Code 1994, § 11.01.207; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-41. Stop lamps and turn signals.

(a) Every motor vehicle or motor-drawn vehicle shall be equipped with a stoplight in good working order at all times and shall meet the requirements of subsection 16-48(a).

(b) No person shall sell or offer for sale or operate on the highways any motor vehicle registered in the state and manufactured or assembled after January 1, 1958, unless it is equipped with at least two stop lamps meeting the requirements of subsection 16-48(a); except that a motorcycle or truck tractor manufactured or assembled after said date shall be equipped with at least one stop lamp meeting the requirements of subsection 16-48(a).

(c) No person shall sell or offer for sale or operate on the highway any motor vehicle, trailer or semitrailer registered in the state and manufactured or assembled after January 1, 1958, and no person shall operate any motor vehicle, trailer or semitrailer on the highways when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds 24 inches, unless it is equipped with electrical turn signals meeting the requirements of subsection 16-48(b). This subsection shall not apply to any motorcycle or low-power scooter.

(Code 1994, § 11.01.208; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-42. Lamp or flag on projecting load.

Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the time specified in section 16-37, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time, there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 12 inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

(Code 1994, § 11.01.209; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-43. Lamps on parked vehicles.

(a) Whenever a vehicle is lawfully parked upon a highway during the hours between sunset and sunrise and in the event there is sufficient light to reveal any person or object within a distance of 1,000 feet upon such highway, no lights need be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between sunset and sunrise, and there is not sufficient light to reveal any person or object within a distance of 1,000 feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more operating lamps meeting the following requirements. At least one lamp shall display a white or amber light visible from a distance of 500 feet to the front of the vehicle, and the same lamp or at least one other lamp

shall display a red light visible from a distance of 500 feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle that is closer to passing traffic. This subsection shall not apply to a low-power scooter.

(c) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

(d) This section shall not apply to low-speed electric vehicles.

(Code 1994, § 11.01.210; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-44. Lamps on farm equipment and other vehicles and equipment.

(a) Every farm tractor and every self-propelled farm equipment unit or implement of husbandry not equipped with an electric lighting system shall at all times mentioned in section 16-37 be equipped with at least one lamp displaying a white light visible from a distance of not less than 500 feet to the front of such vehicle and shall also be equipped with at least one lamp displaying a red light visible from a distance of not less than 500 feet to the rear of such vehicle.

(b) Every self-propelled unit of farm equipment not equipped with an electric lighting system shall at all times mentioned in section 16-37, in addition to the lamps required in subsection (a) of this section, be equipped with two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful upper beams of head lamps.

(c) Every combination of farm tractor and towed unit of farm equipment or implement of husbandry not equipped with an electric lighting system shall, at all times mentioned in section 16-37, be equipped with the following lamps:

(1) At least one lamp mounted to indicate as nearly as practicable to the extreme left projection of said combination and displaying a white light visible from a distance of not less than 500 feet to the front of said combination;

(2) Two lamps each displaying a red light visible when lighted from a distance of not less than 500 feet to the rear of said combination or, as an alternative, at least one lamp displaying a red light visible from a distance of not less than 500 feet to the rear thereof and two red reflectors visible from all distances within 600 feet to 100 feet to the rear thereof when illuminated by the upper beams of head lamps.

(d) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry equipped with an electric lighting system shall at all times mentioned in section 16-37 be equipped with two single-beam head lamps meeting the requirements of section 16-49 or 16-51, respectively, and at least one red lamp visible from a distance of not less than 500 feet to the rear; but every such self-propelled unit of farm equipment other than a farm tractor shall have two such red lamps or, as an alternative, one such red lamp and two red reflectors visible from all distances within 600 feet to 100 feet when directly in front of lawful upper beams of head lamps.

(e) (1) a. Every combination of farm tractor and towed farm equipment or towed implement of husbandry equipped with an electric lighting system shall at all times mentioned in section 16-37 be equipped with lamps as follows:

b. The farm tractor element of every such combination shall be equipped as required in subsection (d) of this section.

c. The towed unit of farm equipment or implement of husbandry element of such combination shall be equipped with two red lamps visible from a distance of not less than 500 feet to the rear or, as an alternative, two red reflectors visible from all distances within 600 feet to the rear when directly in front of lawful upper beams of head lamps.

(1) Said combinations shall also be equipped with a lamp displaying a white or amber light, or any shade of color between white and amber, visible from a distance of not less than 500 feet to the front and a lamp displaying a red light visible when lighted from a distance of not less than 500 feet to the rear.

(f) The lamps and reflectors required in this section shall be so positioned as to show from front and rear as nearly as practicable the extreme projection of the vehicle carrying them on the side of the roadway used in passing

such vehicle. If a farm tractor or a unit of farm equipment, whether self-propelled or towed, is equipped with two or more lamps or reflectors visible from the front or two or more lamps or reflectors visible from the rear, such lamps or reflectors shall be so positioned that the extreme projections, both to the right and to the left of said vehicle, shall be indicated as nearly as practicable.

(g) Every vehicle, including animal-drawn vehicles and vehicles referred to in subsection 16-35(b), not specifically required by the provisions of this chapter to be equipped with lamps or other lighting devices shall at all times specified in subsection 16-37 be equipped with at least one lamp displaying a white light visible from a distance of not less than 500 feet to the front of said vehicle and shall also be equipped with two lamps displaying red lights visible from a distance of not less than 500 feet to the rear of said vehicle or, as an alternative, one lamp displaying a red light visible from a distance of not less than 500 feet to the rear and two red reflectors visible for distances of 100 feet to 600 feet to the rear when illuminated by the upper beams of head lamps.

(Code 1994, § 11.01.211; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-45. Spot lamps and auxiliary lamps.

(a) Any motor vehicle may be equipped with not more than two spot lamps, and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than 100 feet ahead of the vehicle.

(b) Any motor vehicle may be equipped with not more than two fog lamps mounted on the front at a height not less than 12 inches nor more than 30 inches above the level surface upon which the vehicle stands and so aimed that, when the vehicle is not loaded, none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of 25 feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the requirements of this subsection may be used with lower head-lamp beams as specified in subsection 16-49(a)(2).

(c) Any motor vehicle may be equipped with not more than two auxiliary passing lamps mounted on the front at a height not less than 20 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of section 16-49 shall apply to any combination of head lamps and auxiliary passing lamps.

(d) Any motor vehicle may be equipped with not more than two auxiliary driving lamps mounted on the front at a height not less than 16 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of section 16-49 shall apply to any combination of head lamps and auxiliary driving lamps.

(Code 1994, § 11.01.212; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-46. Audible and visual signals on emergency vehicles.

(a) Except as otherwise provided in this section or in section 16-55 in the case of volunteer fire vehicles and volunteer ambulances, every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped as a minimum with a siren and a horn. Such devices shall be capable of emitting a sound audible under normal conditions from a distance of not less than 500 feet.

(b) Every authorized emergency vehicle, except those used as undercover vehicles by governmental agencies, shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with at least one signal lamp mounted as high as practicable, which shall be capable of displaying a flashing, oscillating or rotating red light to the front and to the rear having sufficient intensity to be visible at 500 feet in normal sunlight. In addition to the required red light, flashing, oscillating or rotating signal lights may be used which emit blue, white or blue in combination with white.

(c) A police vehicle, when used as an authorized emergency vehicle, may, but need not be, equipped with the red lights specified in this section.

(d) Any authorized emergency vehicle, including those authorized by section 16-55, may be equipped with green flashing lights, mounted at sufficient height and having sufficient intensity to be visible at 500 feet in all directions in normal daylight. Such lights may only be used at the single designated command post at any emergency location or incident and only when such command post is stationary. The single command post shall be designated by the on-scene incident commander in accordance with local or state government emergency plans. Any other use

of a green light by a vehicle shall constitute a violation of this section.

(e) The use of either the audible or the visual signal equipment described in this section shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in section 16-224.

(Code 1994, § 11.01.213; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-47. Visual signals on service vehicles.

(a) Except as otherwise provided in this section, on or after January 1, 1978, every authorized service vehicle shall, in addition to any other equipment required by this chapter, be equipped with one or more warning lamps mounted as high as practicable, which shall be capable of displaying in all directions one or more flashing, oscillating or rotating yellow lights. Every authorized service vehicle snowplow operated by a general purpose government may also be equipped with and use no more than two flashing, oscillating or rotating blue lights as warning lamps. Lighted directional signs used by police and highway departments to direct traffic need not be visible except to the front and rear. Such lights shall have sufficient intensity to be visible at 500 feet in normal sunlight.

(b) The warning lamps authorized in subsection (a) of this section shall be activated by the operator of an authorized service vehicle only when the vehicle is operating upon the roadway so as to create a hazard to other traffic. The use of such lamps shall not relieve the operator from the duty of using due care for the safety of others or from the obligation of using any other safety equipment or protective devices that are required by this chapter. Service vehicles authorized to operate also as emergency vehicles shall also be equipped to comply with signal requirements for emergency vehicles.

(c) Whenever an authorized service vehicle is performing its service function and is displaying lights as authorized in subsection (a) of this section, drivers of all other vehicles shall exercise more than ordinary care and caution in approaching, overtaking or passing such service vehicle and, in the case of highway and traffic maintenance equipment engaged in work upon the highway, shall comply with the instructions of section 16-230.

(d) On or after January 1, 1978, only authorized service vehicles shall be equipped with the warning lights authorized in subsection (a) of this section.

(e) On or before October 1, 1977, the department of transportation shall determine by rule and regulation which types of vehicles render an essential public service when operating on or along a roadway and warrant designation as authorized service vehicles under specified conditions.

(Code 1994, § 11.01.214; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-48. Signal lamps and devices; additional lighting equipment.

(a) Any motor vehicle may be equipped, and when required under this chapter shall be equipped, with a stop lamp on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than 100 feet to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake, and which may but need not be incorporated with one or more other rear lamps. Such stop lamp may also be automatically actuated by a mechanical device when the vehicle is reducing speed or stopping. If two or more stop lamps are installed on any motor vehicle, any device actuating such lamps shall be so designed and installed that all stop lamps are actuated by such device.

(b) Any motor vehicle may be equipped, and when required under this chapter shall be equipped, with lamps showing to the front and rear for the purpose of indicating an intention to turn either to the right or to the left. Such lamps showing to the front shall be located on the same level and as widely spaced laterally as practicable and when in use shall display a white or amber light, or any shade of color between white and amber, visible from a distance of not less than 100 feet to the front in normal sunlight, and the lamps showing to the rear shall be located at the same level and as widely spaced laterally as practicable and when in use shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than 100 feet to the rear in normal sunlight. When actuated, such lamps shall indicate the intended direction of turning by flashing the light showing to the front and rear on the side toward which the turn is made.

(c) No stop lamp or signal lamp shall project a glaring or dazzling light.

(d) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit

an amber or white light without glare.

(e) Any motor vehicle may be equipped with not more than one runningboard courtesy lamp on each side thereof, which shall emit a white or amber light without glare.

(f) Any motor vehicle may be equipped with not more than two back-up lamps either separately or in combination with other lamps, but no such back-up lamp shall be lighted when the motor vehicle is in forward motion.

(g) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing and, when so equipped and when the said vehicle is not in motion or is being operated at a speed of 25 miles per hour or less and at no other time, may display such warning in addition to any other warning signals required by this chapter. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night.

(h) Any vehicle 80 inches or more in overall width may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted horizontally.

(Code 1994, § 11.01.215; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-49. Multiple-beam road lights.

(a) Except as provided in this chapter, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles, other than motorcycles or low-power scooters, shall be so arranged that the driver may select at will between distributions of light projected to different elevations, and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

(1) There shall be an uppermost distribution of light or composite beam so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.

(2) There shall be a lowermost distribution of light or composite beam so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and on a straight level road under any condition of loading, none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(b) A new motor vehicle, other than a motorcycle or low-power scooter, that has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

(Code 1994, § 11.01.216; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-50. Use of multiple-beam lights.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section 16-37, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(1) Whenever a driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light or composite beam specified in subsection 16-49(a)(2) shall be deemed to avoid glare at all times, regardless of road contour and loading.

(2) Whenever the driver of a vehicle follows another vehicle within 200 feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this

chapter other than the uppermost distribution of light specified in subsection 16-49(a)(1).

(Code 1994, § 11.01.217; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-51. Single-beam road-lighting equipment.

(a) Head lamps arranged to provide a single distribution of light not supplemented by auxiliary driving lamps shall be permitted on motor vehicles manufactured and sold prior to July 15, 1936, in lieu of multiple-beam road-lighting equipment specified in section 16-49 if the single distribution of light complies with the following requirements and limitations:

(1) The head lamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall, at a distance of 25 feet ahead, project higher than a level of five inches below the level of the center of the lamp from which it comes and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead.

(2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet.

(Code 1994, § 11.01.218; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-52. Number of lamps permitted.

Whenever a motor vehicle equipped with head lamps as required in this chapter is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of an intensity greater than 300 candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

(Code 1994, § 11.01.219; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-53. Low-power scooters; lighting equipment; department control; use and operation.

(a) (1) A low-power scooter when in use at the times specified in section 16-37 shall be equipped with a lamp on the front that shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear, of a type approved by the department of revenue, that shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(2) No person shall operate a low-power scooter unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet; except that a low-power scooter shall not be equipped with nor shall any person use upon a low-power scooter a siren or whistle.

(3) Every low-power scooter shall be equipped with a brake that will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(b) (1) Any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps and school bus warning lamps, which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the high-intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(2) No person shall equip, drive or move any vehicle or equipment upon any highway with any lamp or device thereon capable of displaying a red or blue light visible from directly in front of the center thereof. This section shall not apply to any vehicle upon which such lights visible from the front are expressly authorized or required by this chapter.

(3) This subsection shall not be construed to prohibit the use on any vehicle of simultaneously flashing hazard warning lights as provided by subsection 16-48(g).

(Code 1994, § 11.01.220; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-54. Bicycle equipment.

(a) No other provision of this article II and no provision of article III of this chapter shall apply to bicycles or to equipment for use on bicycles except those provisions in this chapter made specifically applicable to bicyclists,

bicycles or their equipment.

(b) Every bicycle in use at the times described in section 16-37 shall be equipped with a lamp on the front emitting a white light visible from a distance of at least 500 feet to the front.

(c) Every bicycle shall be equipped with a red reflector of a type approved by the department of revenue, which shall be visible for 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

(d) Every bicycle when in use at the times described in section 16-37 shall be equipped with reflective material of sufficient size and reflectivity to be visible from both sides for 600 feet when directly in front of lawful lower beams of head lamps on a motor vehicle or, in lieu of such reflective material, with a lighted lamp visible from both sides from a distance of at least 500 feet.

(e) A bicycle or its rider may be equipped with lights or reflectors in addition to those required by subsections (b) to (d) of this section.

(f) A bicycle shall not be equipped with, nor shall any person use upon a bicycle, any siren or whistle.

(g) Every bicycle shall be equipped with a brake or brakes which will enable its rider to stop the bicycle within 25 feet from a speed of ten miles per hour on dry, level, clean pavement.

(h) A person engaged in the business of selling bicycles at retail shall not sell any bicycle unless the bicycle has an identifying number permanently stamped or cast on its frame.

(Code 1994, § 11.01.221; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-55. Volunteer firefighters; volunteer ambulance attendants; special lights and alarm systems.

(a) All members of volunteer fire departments regularly attached to the fire departments organized within incorporated towns and cities and fire protection districts may have their private automobiles identified by red lights installed, two in number, in the front portion of said automobiles so that they can be readily seen by the public. Such lights may have a red glass lens with the term "Fire" across the face, and said word "Fire" shall be cast into the glass; or said automobiles may be equipped with a signal lamp or a combination of signal lamps capable of displaying flashing, oscillating or rotating red or white lights, or a combination thereof, visible to the front and rear at 500 feet in normal sunlight. Such signal lamp or combination of signal lamps may be mounted on the top of the automobile. Said automobiles may be equipped with audible signal systems such as sirens, whistles or bells. Said lights, together with any signal systems authorized by this subsection, may be used only when a member of any such department is responding to or attending a fire alarm or other emergency. Neither such lights nor such signals shall be used for any other purpose than those set forth in this subsection. If used for any other purpose, such use shall constitute a violation of this subsection.

(b) (1) a. All members of a volunteer ambulance service regularly attached to a volunteer ambulance service within an area which the ambulance service would be reasonably expected to serve may have their private automobiles identified by:

b. Two red lights installed in the front portion of said automobiles so that they can be readily seen by the public, which lights shall have red glass lenses; or

c. A red light temporarily or permanently mounted on the top of the automobile.

(2) The automobiles may be equipped with audible signal systems such as sirens, whistles or bells.

(3) The lights, together with any signal systems authorized by this subsection, may be used only when a member of an ambulance service is responding to an emergency requiring the member's services.

(4) The lights and signals shall not be used for any other purpose than the one set forth in this subsection.

(Code 1994, § 11.01.222; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-56. Brakes.

(a) Brake equipment required.

(1) Every motor vehicle, other than a motorcycle, when operated upon a highway shall be equipped with

brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

(2) Every motorcycle and low-power scooter, when operated upon a highway, shall be equipped with at least one brake, which may be operated by hand or foot.

(3) Every trailer or semitrailer of a gross weight of 3,000 pounds or more, when operated upon a highway, shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from the cab, and said brakes shall be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes shall be automatically applied. The provisions of this subsection shall not be applicable to any trailer which does not meet the definition of the term "commercial vehicle," as that term is defined in section 16-68 and which is owned by a farmer when transporting agricultural products produced on the owner's farm or supplies back to the farm of the owner of the trailer, tank trailers not exceeding 10,000 pounds gross weight used solely for transporting liquid fertilizer or gaseous fertilizer under pressure, or distributor trailers not exceeding 10,000 pounds gross weight used solely for transporting and distributing dry fertilizer when hauled by a truck capable of stopping within the distance specified in subsection (b) of this section.

(4) Every motor vehicle, trailer or semitrailer constructed or sold in the state or operated upon the highways shall be equipped with service brakes upon all wheels of every such vehicle; except that:

a. Any trailer or semitrailer of less than 3,000 pounds gross weight, or any horse trailer of a capacity of two horses or less, or any trailer which does not meet the definition of the term "commercial vehicle," as that term is defined in section 16-68 and which is owned by a farmer when transporting agricultural products produced on the owner's farm or supplies back to the farm of the owner of the trailer, or tank trailers not exceeding 10,000 pounds gross weight used solely for transporting liquid fertilizer or gaseous fertilizer under pressure, or distributor trailers not exceeding 10,000 pounds gross weight used solely for transporting and distributing dry fertilizer when hauled by a truck capable of stopping with loaded trailer attached in the distance specified by subsection (b) of this section need not be equipped with brakes, and any two-wheel motor vehicle need have brakes on only one wheel.

b. Any truck or truck tractor, manufactured before July 25, 1980, and having three or more axles, need not have brakes on the wheels of the front or tandem steering axles if the brakes on the other wheels meet the performance requirements of subsection (b) of this section.

c. Every trailer or semitrailer of 3,000 pounds or more gross weight must have brakes on all wheels.

(5) Provisions of this section shall not apply to manufactured homes.

(b) Performance ability of brakes.

(1) The service brakes upon any motor vehicle or combination of vehicles shall be adequate to stop such vehicle when traveling 20 miles per hour within a distance of 40 feet when upon dry asphalt or concrete pavement surface free from loose material where the grade does not exceed one percent.

(2) Under the conditions stated in subsection (b)(1) of this section, the hand brakes shall be adequate to stop such vehicle within a distance of 55 feet and said hand brake shall be adequate to hold such vehicle stationary on any grade upon which operated.

(3) Under the conditions stated in subsection (b)(1) of this section, the service brakes upon a motor vehicle equipped with two-wheel brakes only, when permitted under this section, shall be adequate to stop the vehicle within a distance of 55 feet.

(4) All braking distances specified in this section shall apply to all vehicles mentioned, whether such vehicles are not loaded or are loaded to the maximum capacity permitted under this chapter.

(5) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as possible with respect to the wheels on opposite sides of the vehicle.

(Code 1994, § 11.01.223; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-57. Horns or warning devices.

(a) Every motor vehicle, when operated upon a highway, shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound, except as provided in subsection 16-46(a) in the case of authorized emergency vehicles. The driver of a motor vehicle, when reasonably necessary to insure safe operation, shall give audible warning with the horn but shall not otherwise use such horn when upon a highway.

(b) No vehicle shall be equipped with nor shall any person use upon a vehicle any audible device except as otherwise permitted in this section. It is permissible but not required that any vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as a warning signal unless the alarm device is a required part of the vehicle. Nothing in this section is meant to preclude the use of audible warning devices which are activated when the vehicle is backing. Any authorized emergency vehicle may be equipped with an audible signal device under subsection 16-46(a), but such device shall not be used except when such vehicle is operated in response to an emergency call or in the actual pursuit of a suspected violator of the law or for other special purposes, including, but not limited to, funerals, parades and the escorting of dignitaries.

(c) No bicycle or low-power scooter shall be equipped with nor shall any person use upon such vehicle any siren or whistle.

(d) Snowplows and other snow-removal equipment shall display flashing yellow lights meeting the requirements of section 16-47 as a warning to drivers when such equipment is in service on the highway.

(e) (1) When any snowplow or other snow-removal equipment displaying flashing yellow lights is engaged in snow and ice removal or control, drivers of all other vehicles shall exercise more than ordinary care and caution in approaching, overtaking or passing such snowplow.

(2) The driver of a snowplow, while engaged in the removal or control of snow and ice on any highway open to traffic and while displaying the required flashing yellow warning lights as provided by section 16-47, shall not be charged with any violation of the provisions of this chapter relating to parking or standing, turning, backing or yielding the right-of-way. These exemptions shall not relieve the driver of a snowplow from the duty to drive with due regard for the safety of all persons, nor shall these exemptions protect the driver of a snowplow from the consequences of a reckless or careless disregard for the safety of others.

(Code 1994, § 11.01.224; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-58. Mufflers; prevention of noise.

(a) Every motor vehicle subject to registration and operated on a highway shall at all times be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise, and no such muffler or exhaust system shall be equipped with a cut-off, bypass or similar device. No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle, and such original muffler shall comply with all of the requirements of this section.

(b) A muffler is a device consisting of a series of chamber or baffle plates or other mechanical design for the purpose of receiving exhaust gas from an internal combustion engine and effective in reducing noise.

(Code 1994, § 11.01.225; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-59. Mirrors; exterior placements.

(a) Every motor vehicle shall be equipped with a mirror so located and so constructed as to reflect to the driver a free and unobstructed view of the highway for a distance of at least 200 feet to the rear of such vehicle.

(b) Whenever any motor vehicle is not equipped with a rear window and rear side windows or has a rear

window and rear side windows composed of, covered by or treated with any material or component which, when viewed from the position of the driver, obstructs the rear view of the driver or makes such window or windows nontransparent, or whenever any motor vehicle is towing another vehicle or trailer or carrying any load or cargo or object which obstructs the rear view of the driver, such vehicle shall be equipped with an exterior mirror on each side so located with respect to the position of the driver as to comply with the visual requirement of subsection (a) of this section.

(Code 1994, § 11.01.226; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-60. Windows unobstructed; certain materials prohibited; windshield wiper requirements.

(a) (1) Except as provided in this subsection, no person shall operate any motor vehicle registered in Colorado on which any window, except the windshield, is composed of, covered by or treated with any material or component which presents an opaque, nontransparent or metallic or mirrored appearance in such a way that it allows less than 27 percent light transmittance. The windshield shall allow 70 percent light transmittance. The provisions of this subsection shall not apply to the windows to the rear of the driver, including the rear window, on any motor vehicle; however, if such windows allow less than 27 percent light transmittance, then the front side windows and the windshield on such vehicles shall allow 70 percent light transmittance.

(2) Notwithstanding any provision of subsection (a)(1) of this section, nontransparent material may be applied, installed or affixed to the topmost portion of the windshield subject to the following:

a. The bottom edge of the material extends no more than four inches measured from the top of the windshield down;

b. The material is not red or amber in color, nor does it affect perception of primary colors or otherwise distort vision or contain lettering that distorts or obstructs vision;

c. The material does not reflect sunlight or headlight glare into the eyes of occupants of oncoming or preceding vehicles to any greater extent than the windshield without the material.

(3) Nothing in this subsection (a) shall be construed to prevent the use of any window which is composed of, covered by or treated with any material or component in a manner approved by federal statute or regulation if such window was included as a component part of a vehicle at the time of the vehicle manufacture, or the replacement of any such window by such covering which meets such guidelines.

(4) No material shall be used on any window in the motor vehicle that presents a metallic or mirrored appearance.

(5) Nothing in this subsection (a) shall be construed to deny or prevent the use of certificates or other papers which do not obstruct the view of the driver and which may be required by law to be displayed.

(b) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(c) (1) Except as provided in subsection (c)(2) of this section, on or after January 1, 1989, any person who violates any provision of this section shall be punished pursuant to chapter 9 of title 1 of this Code.

(2) On or after April 6, 1988, any person who installs, covers or treats a windshield or window so that the windshield or window does not meet the requirements of subsection (a)(1) of this section shall be punished by a fine of not less than $500.00 nor more than $1,000.00.

(d) This section shall apply to all motor vehicles; except that subsection (b) of this section shall not apply to low-speed electric vehicles.

(Code 1994, § 11.01.227; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-61. Restrictions on tire equipment.

(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No person shall operate or move on any highway any motor vehicle, trailer or semitrailer having any metal tire in contact with the roadway, and it is unlawful to operate upon the highways of the city any motor vehicle, trailer or semitrailer equipped with solid rubber tires.

(c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberances of any material other than rubber which projects beyond the tread on the traction surface of the tire; except that, on single-tired passenger vehicles and on other single-tired vehicles with rated capacities up to and including three-fourths ton, it shall be permissible to use tires containing studs or other protuberances which do not project more than 1/16 of an inch beyond the tread of the traction surface of the tire; and except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway; and except also that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid.

(d) Local authorities, in their discretion, may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this chapter.

(e) (1) No person shall drive or move a motor vehicle on any highway unless such vehicle is equipped with tires in safe operating condition in accordance with this subsection (e) and any supplemental rules and regulations promulgated by the executive director of the department of revenue.

(2) A tire shall be considered unsafe if it has:

a. Any bump, bulge or knot affecting the tire structure;

b. A break which exposes a tire body cord or is repaired with a boot or patch;

c. A tread depth of less than 2/32 of an inch measured in any two-tread grooves at three locations equally spaced around the circumference of the tire, or, on those tires with tread wear indicators, a tire shall be considered unsafe if it is worn to the point that the tread wear indicators contact the road in any two-tread grooves at three locations equally spaced around the circumference of the tire; except that this subsubsection shall not apply to tires on a commercial vehicle as such term is defined in subsection 16-68(1); or

d. Such other conditions as may be reasonably demonstrated to render it unsafe.

(f) No passenger car tire shall be used on any motor vehicle which is driven or moved on any highway if such tire was designed or manufactured for nonhighway use.

(g) No person shall destroy, alter or deface any marking on a new or usable tire which indicates whether the tire has been manufactured for highway or nonhighway use.

(h) No person shall sell any motor vehicle for highway use unless the vehicle is equipped with tires that are in compliance with subsections (e) and (f) of this section and any rules of safe operating condition promulgated by the department of revenue.

(Code 1994, § 11.01.228; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-62. Safety glazing material in motor vehicles.

(a) No person shall sell any new motor vehicle, nor shall any new motor vehicle be registered, unless such vehicle is equipped with safety glazing material of a type approved by the department of revenue for any required front windshield and wherever glazing material is used in doors and windows of said motor vehicle. This section shall apply to all passenger-type motor vehicles, including passenger buses and school buses, but, in respect to camper coaches and trucks, including truck tractors, the requirements as to safety glazing material shall apply only to all glazing material used in required front windshields and that used in doors and windows in the drivers' compartments and such other compartments as are lawfully occupied by passengers in said vehicles.

(b) The term "safety glazing materials" means such glazing materials as will reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(c) The department of revenue shall compile and publish a list of types of glazing material by name approved by it as meeting the requirements of this section, and the department of revenue shall not, after January 1, 1958, register any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glazing material, and the department of revenue shall suspend the registration of any motor vehicle subject to this section which is found to be not so equipped until it is made to conform to the requirements of this section.

(d) No person shall operate a motor vehicle on any highway within the state unless such vehicle is equipped with a front windshield of an approved type as provided in this section, except as provided in section 16-65(a) and except for motor vehicles registered as collectors' items under C.R.S. § 42-12-101, et seq., as amended from time to time.

(Code 1994, § 11.01.229; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 16-63. Emergency lighting equipment; who must carry.

(a) No motor vehicle carrying a truck license and weighing 6,000 pounds or more and no passenger bus shall be operated over the highways of the city at any time without carrying in an accessible place inside or on the outside of the vehicle three bidirectional emergency reflective triangles of a type approved by the department of revenue, but the use of such equipment is not required in the city where there are street lights within not more than 100 feet.

(b) Whenever a motor vehicle referred to in subsection (a) of this section is stopped upon the traveled portion of a highway or the shoulder of a highway for any cause other than necessary traffic stops, the driver of the stopped motor vehicle shall immediately activate the vehicular hazard warning signal flashers and continue the flashing until the driver places the bidirectional emergency reflective triangles as directed in subsection (c) of this section.

(c) Except as provided in subsection (b) of this section, whenever a motor vehicle referred to in subsection (a) of this section is stopped upon the traveled portion of a highway or the shoulder of a highway for any cause other than necessary traffic stops, the driver shall, as soon as possible, but in any event within ten minutes, place the bidirectional emergency reflective triangles in the following manner:

(1) One at the traffic side of the stopped vehicle, within ten feet of the front or rear of the vehicle;

(2) One at a distance of approximately 100 feet from the stopped vehicle in the center of the traffic lane or shoulder occupied by the vehicle and in the direction toward traffic approaching in that lane; and

(3) One at a distance of approximately 100 feet from the stopped vehicle in the opposite direction from those placed in accordance with subsections (c)(1) and (2) in the center of the traffic lane or shoulder occupied by the vehicle; or

(4) If the vehicle is stopped within 500 feet of a curve, crest of a hill or other obstruction to view, the driver shall place the emergency equipment required by this subsection (c) in the direction of the obstruction to view at a distance of 100 feet to 500 feet from the stopped vehicle so as to afford ample warning to other users of the highway; or

(5) If the vehicle is stopped upon the traveled portion or the shoulder of a divided or one-way highway, the driver shall place the emergency equipment required by this subsection (c), one at a distance of 200 feet and one at a distance of 100 feet in a direction toward approaching traffic in the center of the lane or shoulder occupied by the vehicle, and one at the traffic side of the vehicle within ten feet of the rear of the vehicle.

(d) No motor vehicle operating as a wrecking car at the scene of an accident shall move or attempt to move any wrecked vehicle without first complying with those sections of the law concerning emergency lighting.

(Code 1994, § 11.01.230; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-64. Parking lights.

When lighted lamps are required by section 16-37, no vehicle shall be driven upon a highway with the parking lights lighted except when the lights are being used as signal lamps and except when the head lamps are lighted at the same time. Parking lights are those lights permitted by section 16-48 and any other lights mounted on the front of the vehicle, designed to be displayed primarily when the vehicle is parked.

(Code 1994, § 11.01.231; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-65. Minimum safety standards for motorcycles and low-power scooters.

(a) No person shall operate any motorcycle or low-power scooter on any public highway in the city unless such person and any passenger thereon is wearing goggles or eyeglasses with lenses made of safety glass or plastic; except that this subsection shall not apply to a person wearing a helmet containing eye protection made of safety glass or plastic.

(b) Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for such passengers.

(Code 1994, § 11.01.232; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-66. Alteration of suspension system.

(a) No person shall operate a motor vehicle of a type required to be registered under the laws of the state upon a public highway with either the rear or front suspension system altered or changed from the manufacturer's original design except in accordance with specifications permitting such alteration established by the department of revenue. Nothing contained in this section shall prevent the installation of manufactured heavy duty equipment to include shock absorbers and overload springs, nor shall anything contained in this section prevent a person from operating a motor vehicle on a public highway with normal wear of the suspension system if normal wear shall not affect the control of the vehicle.

(b) This section shall not apply to motor vehicles designed or modified primarily for off-highway racing purposes, and such motor vehicles may be lawfully towed on the highways of the city.

(Code 1994, § 11.01.233; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-67. Slow-moving vehicles; display of emblem.

(a) All machinery, equipment and vehicles, except bicycles and other human-powered vehicles, designed to operate or normally operated at a speed of less than 25 miles per hour on a public highway shall display a triangular slow-moving vehicle emblem on the rear. Bicycles and other human-powered vehicles shall be permitted but not required to display the emblem specified in this subsection (a).

(b) The executive director of the department of revenue shall adopt standards and specifications for such emblem, position of the mounting thereof and requirements for certification of conformance with the standards and specifications adopted by the American Society of Agricultural Engineers concerning such emblems. The requirements of such emblem shall be in addition to any lighting device required by law.

(c) The use of the emblem required under this section shall be restricted to the use specified in subsection (a) of this section, and its use on any other type of vehicle or stationary object shall be prohibited.

(Code 1994, § 11.01.234; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-68. State of Colorado, department of public safety rules and regulations concerning minimum standards for the operation of commercial vehicles adopted.

(a) The State of Colorado Department of Public Safety Rules and Regulations Concerning Minimum Standards for the Operation of Commercial Vehicles, as amended, is adopted by reference for the city. These rules and regulations are published by the Department of Public Safety, State of Colorado, and a copy may be obtained by contacting the Colorado Department of Public Safety located in Denver, Colorado, at 700 Kipling Street #1000, Denver, CO 80215. Also, a copy is available for review and inspection at the city clerk's office located in the city hall building in the city.

(b) Any person who violates a rule or regulation hereunder promulgated by the State of Colorado, Department of Public Safety, and adopted by reference herein, as amended, by the city, commits a traffic offense and shall be fined pursuant to the municipal court's order, as amended, regarding the schedule of fines pursuant to section 2-992 and C.M.C.R. Rule 210(b)(5).

(Code 1994, § 11.01.235; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 24, 2006, § 1, 6-6-2006)

Sec. 16-69. Child restraint systems required; definitions; exemptions.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Childcare center means a facility required to be licensed under the "Childcare Licensing Act," of C.R.S. title 26, article 6.

Child restraint system means a specially designed seating system that is designed to protect, hold or restrain a child in a motor vehicle in such a way as to prevent or minimize injury to the child in the event of a motor vehicle accident that is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system and that meets the Federal Motor Vehicle Safety Standards set forth in Title 49, C.F.R., as amended from time to time.

Motor vehicle means a passenger car, a pickup truck, or a van, minivan or sport utility vehicle with a gross vehicle weight rating of less than 10,000 pounds. The term "motor vehicle" does not include motorcycles, low-power scooters, motorscooters, motorbicycles, motorized bicycles and farm tractors and implements of husbandry designed primarily or exclusively for use in agricultural operations.

Proper use of a safety belt means the shoulder belt, if present, crosses the shoulder and chest and the lap belt crosses the hips, touching the thighs.

Safety belt means a lap belt, a shoulder belt or any other belt or combination of belts installed in a motor vehicle to restrain drivers and passengers, except any such belt that is physically a part of a child restraint system. The term "safety belt" includes the anchorages, the buckles and all other equipment directly related to the operation of safety belts.

Seating position means any motor vehicle interior space intended by the motor vehicle manufacturer to provide seating accommodation while the motor vehicle is in motion.

(b) (1) a. Unless exempted pursuant to subsection (c) of this section, and except as otherwise provided in subsections b and c of this subsection (b)(1), every child who is under eight years of age and who is being transported in the state in a motor vehicle or in a vehicle operated by a childcare center, shall be properly restrained in a child restraint system according to the manufacturer's instructions.

b. If the child is less than one year of age and weighs less than 20 pounds, the child shall be properly restrained in a rear-facing child restraint system in a rear seat of the vehicle.

c. If the child is one year of age or older, but less than four years of age, and weighs less than 40 pounds but at least 20 pounds, the child shall be properly restrained in a rear-facing or forward-facing child restraint system.

(2) Unless excepted pursuant to subsection (c) of this section, every child who is at least eight years of age but less than 16 years of age, who is being transported in the state in a motor vehicle or in a vehicle operated by a childcare center, shall be properly restrained in a safety belt or child restraint system according to the manufacturer's instructions.

(3) If a parent is in the motor vehicle, it is the responsibility of the parent to ensure that his child are provided with and that they properly use a child restraint system or safety belt system. If a parent is not in the motor vehicle, it is the responsibility of the driver transporting a child, subject to the requirements of this section, to ensure that such children are provided with and that they properly use a child restraint system or safety belt system.

(c) Except as provided in C.R.S. title 42, as amended from time to time, the requirements of subsection (b)(2) of this section shall not apply to a child who:

(1) Is less than eight years of age and is being transported in a motor vehicle as a result of a medical or other life-threatening emergency and a child restraint system is not available;

(2) Is being transported in a commercial motor vehicle, as defined in C.R.S. title 42, as amended from time to time, that is operated by a childcare center;

(3) Is the driver of a motor vehicle and is subject to the safety belt requirements provided in C.R.S. title 42,

as amended from time to time;

(4) Is being transported in a motor vehicle that is operated in the business of transporting persons for compensation or hire by or on behalf of a common carrier; a contract carrier; or an operator of a luxury limousine service as those terms are defined in C.R.S. title 42, as amended from time to time.

(d) No person shall use a safety belt or child restraint system, whichever is applicable under the provisions of this section, for children under 16 years of age in a motor vehicle unless it conforms to all applicable federal motor vehicle safety standards.

(Code 1994, § 11.01.236; Ord. No. 08, 2011, § 1, 2-15-2011; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-70. Safety belt systems; mandatory use; exemptions; penalty.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Motor vehicle means a self-propelled vehicle intended primarily for use and operation on the public highways, including passenger cars, station wagons, vans, taxicabs, ambulances, motor homes and pickups. The term does not include motorcycles, low-power scooters, passenger buses, school buses and farm tractors and implements of husbandry designed primarily or exclusively for use in agricultural operations.

Safety belt system means a system utilizing a lap belt, a shoulder belt or any other belt or combination of belts installed in a motor vehicle to restrain drivers and passengers, which system conforms to federal motor vehicle safety standards.

(b) Unless exempted pursuant to subsection (c) of this section, every driver of and every front seat passenger in a motor vehicle equipped with a safety belt system shall wear a fastened safety belt while the motor vehicle is being operated on a street or highway in this municipality, and each such driver and front seat passenger shall be properly fastened into the safety belt system according to the manufacturer's instructions.

(c) Except as provided in C.R.S. title 42, the requirement of subsection (b) of this section shall not apply to:

(1) A child required by section 16-69 to be restrained by a child restraint system;

(2) A member of an ambulance team, other than the driver, while involved in patient care;

(3) A peace officer, level I, as defined or certified by the peace officers standards and training (P.O.S.T.) board while performing official duties so long as the performance of said duties is in accordance with rules and regulations applicable to said officer which are at least as restrictive as subsection (b) of this section and which only provide exceptions necessary to protect the officer;

(4) A person with a physically or psychologically disabling condition whose physical or psychological disability prevents appropriate restraint by a safety belt system if such person possesses a written statement by a physician certifying the condition, as well as stating the reason why such restraint is inappropriate;

(5) A person driving or riding in a motor vehicle not equipped with a safety belt system due to the fact that federal law does not require such vehicle to be equipped with a safety belt system;

(6) A rural letter carrier of the United States Postal Service while performing duties as a rural letter carrier;

(7) A person operating any motor vehicle which does not meet the definition of commercial vehicle as that term is defined in section 16-68 for commercial or residential delivery or pickup service; except that such person shall be required to wear a fastened safety belt during the time period prior to the first delivery or pickup of the day and during the time period following the last delivery or pickup of the day.

(d) Any person who operates a motor vehicle while he or any passenger is in violation of the requirement of subsection (b) of this section commits a traffic infraction.

(e) No driver in a motor vehicle shall be cited for a violation of subsection (b) of this section unless such driver was stopped by a law enforcement officer for an alleged violation of this chapter or state law other than a violation of this section.

(f) Testimony at a trial for a violation charged pursuant to subsection (b) of this section may include:

(1) Testimony by a law enforcement officer that the officer observed the person charged operate a motor vehicle or has otherwise obtained evidence that the person charged operated a motor vehicle while said operator or any passenger was in violation of the requirement of subsection (b) of this section; or

(2) Evidence that the driver removed the safety belts or knowingly drove a vehicle from which the safety belts had been removed.

(Code 1994, § 11.01.237; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 9, 2000, § 2, 4-18-2000; Ord. No. 19, 2000, § 1, 6-20-2000; Ord. No. 07, 2011, § 1, 2-1-2011; Ord. No. 08, 2011, § 1, 2-15-2011; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-71. Blue and red lights--illegal use or possession.

(a) A person shall not be in actual physical control of a vehicle, except an authorized emergency vehicle as defined in C.R.S. title 42, as amended from time to time, that the person knows contains a lamp or device that is designed to display, or that is capable of displaying if affixed or attached to the vehicle, a red or blue light visible directly in front of the center of the vehicle.

(b) It shall be an affirmative defense that the defendant was:

(1) A peace officer as described in C.R.S. title 16, as amended from time to time;

(2) In actual physical control of a vehicle expressly authorized by a chief of police or sheriff to contain a lamp or device that is designed to display, or that is capable of displaying if affixed or attached to the vehicle, a red or blue light visible from directly in front of the center of the vehicle;

(3) A member of a volunteer fire department or a volunteer ambulance service who possesses a permit from the fire chief of the fire department or chief executive officer of the ambulance service through which the volunteer serves to operate a vehicle pursuant to C.R.S. title 42, as amended from time to time;

(4) A vendor who exhibits, sells or offers for sale a lamp or device designed to display, or that is capable of displaying if affixed or attached to the vehicle, a red or blue light; or

(5) A collector of fire engines, fire suppression vehicles or ambulances and the vehicle to which the red or blue lamps were affixed is valued for the vehicle's historical interest or as a collector's item.

(Code 1994, § 11.01.238; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-72. Low-speed electric vehicle equipment requirements.

A low-speed electric vehicle shall conform with applicable federal manufacturing equipment standards. Any person who operates a low-speed electric vehicle in violation of this section commits a violation of this Code.

(Code 1994, § 11.01.240; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-73. License plates.

(a) No motorized vehicle authorized to operate on roadways within the city shall be operated upon any roadway without displaying a valid, current license plate required by the laws of the state.

(b) License plates assigned to a self-propelled vehicle other than a motorcycle or street rod vehicle shall be attached thereto, one in the front and the other in the rear. The number plate assigned to a motorcycle, street rod vehicle, trailer or semi-trailer, any other vehicle drawn by a motor vehicle or any item of mobile machinery or self-propelled construction equipment shall be attached to the rear thereof. License plates shall be so displayed during the current registration year.

(c) License plates shall be displayed showing the current registration month and year.

(d) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned, so as to prevent the plate from swinging, and shall be horizontal at a height not less than 12 inches from the ground measuring from the bottom of such plate, in a place and position clearly visible from a distance of 50 feet away, and shall be maintained free from foreign materials and in a condition to be clearly legible.

(e) A person shall not operate a motor vehicle with an affixed device or a substance that causes all or a portion of a license plate to be unreadable by a system used to automatically identify a motor vehicle. Such a device, includes, but is not limited to, a cover that distorts angular visibility, alters the color of the plate or is smoked,

scratched or dirty so as to impair the legibility of the license plate.

(Code 1994, § 11.01.250; Ord. No. 09, 2011, § 1, 2-15-2011)

Secs. 16-74--16-104. Reserved.

~~PART~~ ARTICLE III. EMISSIONS INSPECTION

Sec. 16-105. Certification of emissions control.

(a) No person shall drive a vehicle on the streets or highways of the city unless such vehicle has a valid certification of emissions control, if such vehicle is required by the provisions of C.R.S. title 42, article 4, part 3, to have a valid certification of emissions control.

(b) Police officers, at any time upon reasonable cause, may require the driver of a vehicle to stop and submit such vehicle to an inspection in order to determine whether such vehicle has a valid certification of emissions control if required by the provisions of C.R.S. title 42, article 4, part 3. Police officers, during any traffic investigation, may require the driver of any vehicle involved in such investigation to provide evidence of a valid certification of emissions control. In the event that such vehicle does not have a valid certification of emissions control, the officer may give a written notice and issue a summons and complaint to the driver. Said notice shall require that such vehicle comply with the provisions of C.R.S. title 42, article 4, part 3.

(c) Every owner or driver, upon receiving the notice and the summons and complaint issued pursuant to subsection (b) of this section, shall comply therewith and shall secure a certification upon such notice by an inspection and readjustment station that such vehicle conforms to the requirements of C.R.S. title 42, article 4, part 3. Said certification shall be returned to the owner or driver for presentation in court as provided for in subsection (d) or (e) of this section.

(d) Upon a showing of good cause that the required conformity with C.R.S. title 42, article 4, part 3, cannot be made within 30 days after issuance of the notice and the summons and complaint, the municipal court may extend the period of time for conformity as may appear justified.

(e) The owner or driver may, in lieu of appearance, submit to the municipal court, within 30 days after issuance of the notice and the summons and complaint, evidence that a valid certification of emissions control for such vehicle had been issued at the time of the alleged violation of subsection (a) of this section.

(Code 1994, § 11.01.301; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 09, 2011, § 1, 2-15-2011)

Sec. 16-106. Visual emissions prohibited; penalties.

(a) Emissions from gasoline-powered engines. It shall be unlawful for any owner or operator of any gasoline-powered engine to cause or permit to be operated in the city any gasoline-powered engine which emits any visible air contaminants for a period of time greater than five seconds.

(b) Emission from diesel-powered engines. It shall be unlawful for any owner or operator of any diesel-powered engine to cause or permit to be operated in the city any diesel-powered engine which emits any visible air contaminants which exceed 20 percent opacity for a period of time greater than five seconds; provided, however, that the percentage opacity standard of this section shall not apply to diesel-powered locomotives engaged in switching or railroad yard activities. Emissions from such locomotives shall not exceed 40 percent opacity for longer than ten seconds.

(c) Deception by owner. It shall be unlawful for any person to misrepresent or give any false or inaccurate information or in any other way attempt to deceive a licensed repair garage or the department in order to avoid compliance with the provisions of this chapter.

(d) Deception by licensed garage. It shall be unlawful for any licensed repair garage or its agents to misrepresent any fact, falsely certify any repair or in any other way attempt to mislead the department into believing that air pollution standards are being met.

(e) For the purposes of this section, the term "opacity" means the degree to which an air contaminant emission obscures the view of a trained observer, expressed in percentage of the obscuration, or the degree (percentage) to which transmittance of light is reduced by an air contaminant emission.

(f) Violation of this section shall be punishable by a fine of not less than $100.00, except that the minimum fine shall be reduced to $25.00 if evidence of repairs by a certified mechanic or disposal of the vehicle are provided to the court.

(Code 1994, § 11.01.302; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-107. Penalties.

No person shall operate a motor vehicle registered or required to be registered in the state or any vehicle otherwise required to display a valid verification of emissions test, nor shall any person allow such a motor vehicle to be parked on public property or on private property available for public use, without such vehicle displaying a valid verification of emissions test. The owner of any motor vehicle which is in violation of this subsection (a) because it is parked without displaying a valid verification of emissions test shall be responsible for payment of any penalty imposed under this section unless such owner proves that the motor vehicle was in the possession of another person without the owner's permission at the time of the violation.

(1) Police officers, at any time upon reasonable cause, may require the driver of a vehicle to stop and submit such vehicle to an inspection in order to determine whether such vehicle has a valid verification of emissions test if required by the provisions of C.R.S. §§ 42-4-301 to 42-4-316. In the event that such vehicle does not display a valid verification of emissions test, the officer shall issue a summons to the driver.

(2) Any vehicle owner who violates any provision of this section is guilty of a traffic offense.

(3) Any nonowner driver who violates any provision of this section is guilty of a traffic offense.

(4) The owner or driver may, in lieu of appearance, submit to the court, within 30 days after the issuance of the notice and summons, the certification or proof of mailing specified in this section.

(Code 1994, § 11.01.313; Ord. No. 80, 1997, § 2, 12-16-1997)

Secs. 16-108--16-127. Reserved.

~~PART~~ ARTICLE IV. DIESEL EMISSIONS PROGRAM

Sec. 16-128. Visible emissions from diesel-powered motor vehicles unlawful; penalty.

(a) (1) No owner or operator of a diesel-powered vehicle shall cause or knowingly permit the emission from such vehicle of any visible air contaminants which exceed the emission level as described in C.R.S. title 42, article 4, part 4, as amended from time to time, within the program area as defined in C.R.S. title 42, article 4, part 4, as amended from time to time.

(2) As used in this section:

Air contaminant means any fume, odor, smoke, particulate matter, vapor, gas or combination thereof, except water vapor or steam condensate.

Emission means a discharge or release of one or more air contaminants into the atmosphere.

Opacity means the degree to which an air contaminant emission obscures the view of a trained observer, expressed in percentage of the obscuration or the percentage to which transmittance of light is reduced by an air contaminant emission.

Trained observer means a person who is certified by the department of health as trained in the determination of opacity.

(b) (1) A police officer or other peace officer who is a trained observer, or an environmental officer employed by a local government and certified by the department of health to determine opacity, at any time upon reasonable cause, may issue a summons personally to the operator of a motor vehicle emitting visible air contaminants in violation of subsection (a) of this section.

(2) Any owner or operator of a diesel-powered motor vehicle receiving the summons issued pursuant to subsection (1) of this subsection (b) or mailed pursuant to subsection (b) of subsection (4) of this subsection (b) shall comply therewith and shall secure a certification of opacity compliance from a state

emissions technical center that such vehicle conforms to the requirements of this section. Said certification shall be returned to the owner or operator for presentation in court as provided in subsection (3) of this subsection (b).

(3) a. Any owner who violates any provision of this section is guilty of a traffic offense, except as provided in subsection (b) of this subsection (3).

b. If the owner submits to the court of competent jurisdiction within 30 days after the issuance of the summons proof that the owner has disposed of the vehicle for junk parts or immobilized the vehicle and if the owner also submits to the court within such time the registration and license plates for the vehicle, the owner shall be punished by a fine.

(4) a. Any nonowner operator who violates any provision of this section is guilty of a traffic offense and, upon conviction thereof, except as provided in subsection (b) of this subsection (4), shall be punished by a fine.

b. If the operator submits to the court of competent jurisdiction within 30 days after the issuance of the summons proof that the operator was not the owner of the vehicle at the time the summons was issued and that the operator mailed, within five days after issuance thereof, a copy of the notice and summons by certified mail to the owner of the vehicle at the address on the registration, the operator shall be punished by a fine.

(5) Upon a showing of good cause that compliance with this section cannot be made within 30 days after issuance of the notice and summons, the court of competent jurisdiction may extend the period of time for compliance as may appear justified.

(6) The owner or operator, in lieu of appearance, may submit to the court of competent jurisdiction, within 30 days after the issuance of the notice and summons, the certification or proof of mailing specified in this subsection (b) together with a fine.

(Code 1994, § 11.01.413; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Secs. 16-129--16-154. Reserved.

~~PART~~ ARTICLE V. SIZE WEIGHT LOAD

Sec. 16-155. Size and weight violations; penalty.

Except as provided in section 16-63, it is a traffic offense for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or vehicles of a size or weight exceeding the limitations stated in sections 16-156 to 16-166 or otherwise in violation of said sections or section 16-165, except as permitted in section 16-164. The maximum size and weight of vehicles specified in said sections shall be lawful throughout the city, and the city shall have no power or authority to alter said limitations, except as express authority may be granted in said sections.

(Code 1994, § 11.01.501; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-156. Width of vehicles.

(a) The total outside width of any vehicle or the load thereon shall not exceed 102 inches, except as otherwise provided in this section.

(b) (1) A load of loose hay, including loosely bound, round bales, whether horse drawn or by motor, shall not exceed 12 feet in width.

(2) A vehicle used only as a single unit may transport a load of small rectangular hay bales if such vehicle and load do not exceed ten feet six inches in width and 30 feet in length.

(c) It is unlawful for any person to operate a vehicle or a motor vehicle which has attached thereto in any manner any chain, rope, wire or other equipment which drags, swings or projects in any manner so as to endanger the person or property of another.

(d) The total outside width of buses and coaches used for the transportation of passengers shall not exceed

eight feet six inches.

(e) The total outside width of vehicles as included in this section shall not be construed so as to prohibit the projection beyond such width of clearance lights, rearview mirrors or other accessories required by federal, state or city laws or regulations.

(Code 1994, § 11.01.502; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-157. Projecting loads on passenger vehicles.

No passenger-type vehicle, except a motorcycle or a bicycle, shall be operated on any highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof.

(Code 1994, § 11.01.503; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-158. Height and length of vehicles.

(a) No vehicle unladen or with load shall exceed a height of 13 feet; except that vehicles with a height of 14 feet six inches shall be operated only on highways designated by the department of transportation.

(b) No single motor vehicle shall exceed a length of 45 feet extreme overall dimension, inclusive of front and rear bumpers. The length of vehicles used for the mass transportation of passengers wholly within the limits of a town, city or municipality or within a radius of 15 miles thereof may extend to 60 feet. The length of school buses may extend to 40 feet.

(c) Buses used for the transportation of passengers between towns, cities and municipalities in the state may be 60 feet extreme overall length, inclusive of front and rear bumpers but shall not exceed a height of 13 feet six inches, if such buses are equipped to conform with the load and weight limitations set forth in section 16-162; except that buses with a height of 14 feet six inches which otherwise conform to the requirements of this subsection (c) shall be operated only on highways designated by the department of transportation.

(d) No combination of vehicles coupled together shall consist of more than four units, and no such combination of vehicles shall exceed a total overall length of 70 feet. Said length limitation shall not apply to truck tractor-semitrailer combinations when the semitrailer is 57 feet four inches or less in length or to truck tractor-semitrailer-trailer combinations when both the semitrailer and the trailer are 28 feet six inches or less in length. Said length limitation shall also not apply to saddlemount combinations, which shall not exceed 75 feet in total overall length. Said length limitations shall also not apply to vehicles operated by a public utility when required for emergency repair of public service facilities or properties or when operated under special permit as provided in section 16-164, but, in respect to night transportation, every such vehicle and the load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of such load. Said length limitations shall also not apply to specialized equipment used in combination for transporting automobiles or boats when such specialized equipment is stinger-steered, as defined in C.R.S. title 42, and the combination does not exceed 75 feet in length exclusive of safety devices, which safety devices shall not be designed or used for carrying cargo. The limitations provided in this section shall be strictly construed and enforced. Extensions of not more than 18 inches in length on each end of a vehicle or combination of vehicles used to transport manufactured vehicles shall not be included in measuring the length of such vehicle or combination of vehicles when loaded.

(e) The load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend beyond the front wheels of such vehicles or vehicle or the front-most point of the grill of such vehicle; but a load may project not more than four feet beyond the front-most point of the grill assembly of the vehicle engine compartment of such a vehicle at a point above the cab of the driver's compartment so long as that part of any load projecting ahead of the rear of the cab or driver's compartment shall be so loaded as not to obscure the vision of the driver to the front or to either side, except for the provisions of subsection (d) of this section.

(f) The length limitations of vehicles and combinations of vehicles provided for in this section as they apply to vehicles being operated and utilized for the transportation of steel, fabricated beams, trusses, utility poles, pipes and automobiles shall be determined without regard to the projection of said commodities beyond the extreme front or rear of the vehicle or combination of vehicles; except that the projection of a load to the front shall be governed

by the provisions of subsection (e) of this section, and no load shall project to the rear more than ten feet.

(Code 1994, § 11.01.504; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-159. Longer vehicle combinations.

(a) Notwithstanding any other provision of this chapter to the contrary, the department of transportation, in the exercise of its discretion, may issue permits for the use of longer vehicle combinations. An annual permit for such use may be issued to each qualified carrier company. The carrier company shall maintain a copy of such annual permit in each vehicle operating as a longer vehicle combination.

(b) The permits shall allow operation, over designated highways, of the following vehicle combinations of not more than three cargo units and neither fewer than six axles nor more than nine axles:

(1) A truck tractor, a semitrailer and two trailers. A semitrailer used with a converter dolly shall be considered a trailer. Semitrailers and trailers shall be of approximately equal lengths not to exceed 28 feet six inches in length.

(2) A truck tractor, semitrailer and single trailer. A semitrailer used with a converter dolly shall be considered a trailer. Semitrailers and trailers shall be of approximately equal lengths not to exceed 48 feet in length.

(3) A truck tractor, semitrailer and single trailer, one trailer of which is not more than 48 feet long, the other trailer of which is not more than 28 feet six inches long. A semitrailer used with a converter dolly shall be considered a trailer. The shorter trailer shall be operated as the rear trailer.

(4) A truck and single trailer, having an overall length of not more than 85 feet, the truck of which is not more than 35 feet long and the trailer of which is not more than 40 feet long. For the purposes of this subsection (d), a semitrailer used with a converter dolly shall be considered a trailer.

(Code 1994, § 11.01.505; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-160. Trailers and towed vehicles.

(a) When one vehicle is towing another, the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby, and said drawbar or other connection shall not exceed 15 feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery or other objects of a structural nature which cannot readily be dismembered and except connections between vehicles in which the combined lengths of the vehicles and the connection does not exceed an overall length of 55 feet and the connection is of rigid construction included as part of the structural design of the towed vehicle.

(b) When one vehicle is towing another and the connection consists of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than 12 inches square.

(c) Whenever one vehicle is towing another, in addition to the drawbar or other connection, except a fifth wheel connection meeting the requirements of the department of transportation, safety chains or cables arranged in such a way that it will be impossible for the vehicle being towed to break loose from the vehicle towing in the event the drawbar or other connection were to be broken, loosened or otherwise damaged shall be used. This subsection (c) shall apply to all motor vehicles, to all trailers, except semitrailers connected by a proper fifth wheel, and to any dolly used to convert a semitrailer to a full trailer.

(Code 1994, § 11.01.506; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-161. Wheel and axle loads.

(a) The gross weight upon any wheel of a vehicle shall not exceed the following:

(1) When the wheel is equipped with a solid rubber or cushion tire, 8,000 pounds;

(2) When the wheel is equipped with a pneumatic tire, 9,000 pounds.

(b) The gross weight upon any single axle or tandem axle of a vehicle shall not exceed the following:

(1) When the wheels attached to said axle are equipped with solid rubber or cushion tires, 16,000 pounds.

(2) When the wheels attached to a single axle are equipped with pneumatic tires, 20,000 pounds.

(3) When the wheels attached to a tandem axle are equipped with pneumatic tires, 36,000 pounds for highways on the interstate system and 40,000 pounds for highways not on the interstate system.

(c) Vehicles equipped with a self-compactor and used solely for the transporting of trash are exempted from the provisions of subsection (b)(2) of this section.

(d) For the purposes of this section:

(1) The term "single axle" is defined as all wheels, whose centers may be included within two parallel transverse vertical planes not more than 40 inches apart, extending across the full width of the vehicle.

(2) The term "tandem axle" is defined as two or more consecutive axles, the centers of which may be included between parallel vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the vehicle.

(e) The gross weight upon any one wheel of a steel-tired vehicle shall not exceed 500 pounds per inch of cross-sectional width of tire.

(Code 1994, § 11.01.507; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-162. Gross weight of vehicles and loads.

No vehicle or combination of vehicles shall be moved or operated on any highway or bridge when the gross weight thereof exceeds the limits specified below:

(1) a. The gross weight upon any one axle of a vehicle shall not exceed the limits prescribed in section 16-161.

b. Subject to the limitations prescribed in section 16-161, the gross weight of a vehicle having two axles shall not exceed 36,000 pounds.

c. Subject to the limitations prescribed in section 16-161, the gross weight of a single vehicle having three or more axles shall not exceed 54,000 pounds.

(2) Subject to the limitations prescribed in section 16-161, the maximum gross weight of any vehicle or combination of vehicles shall not exceed that determined by the formula W equals 1,000 (L plus 40), W = the gross weight in pounds, L = the length in feet between the centers of the first and last axles of such vehicle or combination of vehicles, but in computation of this formula no gross vehicle weight shall exceed 85,000 pounds. For the purposes of this section, where a combination of vehicles is used, no vehicle shall carry a gross weight of less than ten percent of the overall gross weight of the combination of vehicles; except that these limitations shall not apply to specialized trailers of fixed public utilities whose axles may carry less than ten percent of the weight of the combination. The limitations provided in this section shall be strictly construed and enforced.

(3) Notwithstanding any other provisions of this section, except as may be authorized under section 16-164, no vehicle or combination of vehicles shall be moved or operated on any highway or bridge which is part of the national system of interstate and defense highways, also known as the interstate system, when the gross weight of such vehicle or combination of vehicles exceeds the following specified limits:

a. Subject to the limitations prescribed in section 16-161, the gross weight of a vehicle having two axles shall not exceed 36,000 pounds.

b. Subject to the limitations prescribed in section 16-161, the gross weight of a single vehicle having three or more axles shall not exceed 54,000 pounds.

c. (i) Subject to the limitations prescribed in section 16-161, the maximum gross weight of any vehicle or combination of vehicles shall not exceed that determined by the formula W = 500 [(LN/N-1) + 12N + 36].

(ii) In using the formula in subsection (3)c.(i) of this section, W equals overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L equals distance in feet between first and last axles of such vehicle or combination of vehicles and N equals number of axles; but in computations of this formula no gross vehicle weight shall exceed

80,000 pounds, except as may be authorized under section 16-164 or state law.

d. For the purposes of this subsection, where a combination of vehicles is used, no vehicle shall carry a gross weight of less than ten percent of the overall gross weight of the combination of vehicles; except that this limitation shall not apply to specialized trailers whose specific use is to haul poles and whose axles may carry less than ten percent of the weight of the combination.

(Code 1994, § 11.01.508; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-163. Vehicles weighed; excess removed.

(a) Any police or peace officer, as defined or certified by the peace officers standards and training (P.O.S.T.) board, having reason to believe that the weight of a vehicle and load is unlawful, is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales or shall require that such vehicle be driven to the nearest public scales in the event such scales are within five miles.

(b) (1) Except as provided in subsection (b)(2) of this section, whenever an officer upon weighing a vehicle and load as provided in subsection (a) of this section determines that the weight is unlawful, such officer shall require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle to such limit as permitted under sections 16-155 to 16-166 and 16-465. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator.

(2) Whenever an officer upon weighing a vehicle and load as provided in subsection (a) of this section determines that the weight is unlawful and the load consists solely of either explosives or hazardous materials as defined in C.R.S. title 42, as amended from time to time, such officer shall permit the driver of such vehicle to proceed to the driver's destination without requiring such person to unload the excess portion of such load.

(c) Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing or who fails or refuses when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this section commits a traffic offense.

(Code 1994, § 11.01.509; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 07, 2011, § 1, 2-1-2011; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-164. Permits for excess size and weight and for manufactured homes.

(a) (1) Municipal authorities, with respect to highways under their jurisdiction may, upon application in writing and good cause being shown therefor, issue a single trip, a special or an annual permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this chapter or state law or otherwise not in conformity with the provisions of this chapter upon any highway under its jurisdiction; except that permits for the movement of any manufactured home shall be issued as provided in subsection (b) of this section.

(2) The application for any permit shall specifically describe the vehicle and load to be operated or moved and the particular highways for which the permit to operate is requested, and whether such permit is for a single trip, a special or an annual operation, and the time of such movement. All local permits shall be issued in the discretion of the local authority pursuant to ordinances or resolutions adopted in accordance with section 16-165. Any ordinances or resolutions of the city shall not conflict with C.R.S. § 42-4-510, as amended from time to time.

(b) In the event of an imminent natural or manmade disaster or emergency, including, but not limited to, rising waters, flood or fire, the owner, owner's representative or agent, occupant or tenant of a manufactured home or the mobile home park owner or manager, lienholder or manufactured home dealer is specifically exempted from the need to obtain a permit pursuant to this section and may move the endangered manufactured home out of the danger area to a temporary or new permanent location and may move such manufactured home back to its original location without a permit or penalty or fee requirement. Upon any such move to a temporary location as a result of a disaster or emergency, the person making the move or his agent or representative shall notify the county assessor in the county to which the manufactured home has been moved, within 20 days after such move, of the date and

circumstances pertaining to the move and the temporary or permanent new location of the manufactured home. If the manufactured home is moved to a new permanent location from a temporary location as a result of a disaster or emergency, a permit for such move shall be issued but no fee shall be assessed.

(c) The department of transportation or the Colorado State Patrol and the city is authorized to issue or withhold a permit, as provided in this section, and, if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or otherwise to limit or prescribe conditions of operation of such vehicles, when necessary to protect the safety of highway users, to protect the efficient movement of traffic from unreasonable interference, or to protect the highways from undue damage to the road foundations, surfaces or structures and may require such undertaking or other security as may be deemed necessary to compensate for any injury to any highway or highway structure.

(d) Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting such permit, and no person shall violate any of the terms or conditions of such special permit.

(e) No vehicle having a permit under this section shall be remodeled, rebuilt, altered or changed except in such a way as to conform to those specifications and limitations established in sections 16-155 to 16-161 and 16-165 or state law.

(f) Any person who has obtained a valid permit for the movement of any oversize vehicle or load may attach to such vehicle or load or to any vehicle accompanying the same not more than three illuminated flashing yellow signals as warning devices.

(g) No permit shall be necessary for the operation of authorized emergency vehicles, public transportation vehicles operated by municipalities or other political subdivisions of the state, county road maintenance and county road construction equipment temporarily moved upon the highway, implements of husbandry, and farm tractors temporarily moved upon the highway, including transportation of such tractors or implements by a person dealing therein to his place of business within the state or to the premises of a purchaser or prospective purchaser within the state; nor shall such vehicles or equipment be subject to the size and weight provisions of this article.

(h) The city may impose a fee, in addition to, but not to exceed, the amounts required in C.R.S. § 42-4-510, as amended from time to time, as provided by ordinance or resolution; and, in the case of a permit under C.R.S. title 42, article 4, part 5, as amended from time to time, the amount of the fee shall not exceed the actual cost of the extraordinary action.

(i) (1) Any person holding a permit issued pursuant to this section or any person operating a vehicle pursuant to such permit who violates any provision of this section, any ordinance or resolution of the city, or any standards or rules or regulations promulgated pursuant to C.R.S. title 42, article 4, part 5, as amended from time to time, by the department of transportation except the provisions of C.R.S. § 42-4-510(2)(b)(IV), as amended from time to time, commits a traffic offense.

(2) The city with regard to a local permit may, after a hearing under C.R.S. § 24-4-105, as amended from time to time, revoke, suspend, refuse to renew or refuse to issue any permit authorized by this section upon a finding that the holder of the permit has violated the provisions of this section, any ordinance or resolution of the city or any standards or rules or regulations promulgated pursuant to this section.

(Code 1994, § 11.01.510; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-165. Permit standards; local.

(a) Any permits which may be required by the city shall be issued in accordance with ordinances and resolutions adopted by the city council after a public hearing at which testimony is received from affected motor vehicle owners and operators. Notice of such public hearing shall be published in a newspaper having general circulation within the local authority's jurisdiction. Such notice shall not be less than eight days prior to the date of hearing. The publication shall not be placed in that portion of the newspaper in which legal notices or classified advertisements appear. Such notice shall state the purpose of the hearing, the time and place of the hearing and that the general public, including motor vehicle owners and operators to be affected, may attend and make oral or written comments regarding the proposed ordinance or resolution. Notice of any subsequent hearing shall be published in the same manner as for the original hearing.

(b) At least 30 days prior to such public hearing, the local authority shall transmit a copy of the proposed ordinance or resolution to the department of transportation for its comments and said department shall make such comments in writing to the local authority prior to such public hearing.

(Code 1994, § 11.01.511; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-166. Liability for damage to highway.

(a) No person shall drive, operate or move upon or over any highway or highway structure any vehicle, object or contrivance in such a manner so as to cause damage to said highway or highway structure. When the damage sustained to said highway or highway structure is the result of the operating, driving or moving of such vehicle, object or contrivance weighing in excess of the maximum weight authorized by sections 16-155 to 16-166 and 16-165, it shall be no defense to any action, either civil or criminal, brought against such person that the weight of the vehicle was authorized by special permit issued in accordance with sections 16-155 to 16-166 and 16-165.

(b) Every person violating the provisions of subsection (a) of this section shall be liable for all damage which said highway or highway structure may sustain as a result thereof. Whenever the driver of such vehicle, object or contrivance is not the owner thereof but is operating, driving or moving such vehicle, object or contrivance with the express or implied consent of the owner thereof, then said owner or driver shall be jointly and severally liable for any such damage. The liability for damage sustained by any such highway or highway structure may be enforced by a civil action by the authorities in control of such highway or highway structure. No satisfaction of such civil liability, however, shall be deemed to be a release or satisfaction of any criminal liability for violation of the provisions of subsection (a) of this section.

(Code 1994, § 11.01.512; Ord. No. 80, 1997, § 2, 12-16-1997)

Secs. 16-167--16-185. Reserved.

~~PART~~ ARTICLE VI. SIGNALS SIGNS MARKINGS

Sec. 16-186. City to sign highways; where.

The city shall place and maintain such traffic control devices, conforming to the "Manual of Uniform Traffic Control Devices" and specifications, upon municipal streets and highways as it deems necessary to indicate and to carry out the provisions of this chapter or to regulate, warn or guide traffic.

(Code 1994, § 11.01.601; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-187. Local traffic control devices.

(a) No local authority shall erect or maintain any stop sign or traffic control signal at any location so as to require the traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the department of transportation.

(b) Where practical no local authority shall maintain three traffic control signals located on a roadway so as to be within one minute's driving time (to be determined by the speed limit) from any one of the signals to the other without synchronizing the lights to enhance the flow of traffic and thereby reduce air pollution.

(Code 1994, § 11.01.602; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-188. Obedience to official traffic control devices.

(a) No driver of a vehicle shall disobey the instructions of any official traffic control device including any official hand signal device placed or displayed in accordance with the provisions of this chapter unless otherwise directed by a police officer subject to the exceptions in this chapter granted the driver of an authorized emergency vehicle.

(b) No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

(c) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority unless the contrary is established by competent evidence.

(d) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter unless the contrary is established by competent evidence.

(Code 1994, § 11.01.603; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-189. Traffic control signal legend.

(a) If traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination as declared in the traffic control manual adopted by the department of transportation, only the colors green, yellow and red shall be used, except for special pedestrian-control signals carrying a word or symbol legend as provided in section 16-255, and said lights, arrows and combinations thereof shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) *Green indication.*

a. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn; but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection and to pedestrians within an adjacent crosswalk at the time such signal is exhibited.

b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

c. Unless otherwise directed by a pedestrian-control signal as provided in section 16-255, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Steady yellow indication.*

a. Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter.

b. Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in section 16-255, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.

(3) *Steady red indication.*

a. Vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown; except that:

1. Such vehicular traffic, after coming to a stop and yielding the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection, may make a right turn, unless state or local road authorities within their respective jurisdictions have by ordinance or resolution prohibited any such right turn and have erected an official sign at each intersection where such right turn is prohibited;

2. Such vehicular traffic, when proceeding on a one-way street and after coming to a stop, may make a left turn onto a one-way street upon which traffic is moving to the left of the driver. Such turn shall be made only after yielding the right-of-way to pedestrians and other traffic

proceeding as directed. No turn shall be made pursuant to this subsection if local authorities have by ordinance prohibited any such left turn and erected a sign giving notice of any such prohibition at each intersection where such left turn is prohibited.

b. Pedestrians facing a steady circular red signal alone shall not enter the roadway, unless otherwise directed by a pedestrian-control signal as provided in section 16-255.

c. Vehicular traffic facing a steady red arrow signal may not enter the intersection to make the movement indicated by such arrow and, unless entering the intersection to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to make the movement indicated by such arrow is shown.

d. Pedestrians facing a steady red arrow signal shall not enter the roadway, unless otherwise directed by a pedestrian-control signal as provided in section 16-255.

(4) Nonintersection signal: In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or pavement marking indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(5) Lane-use-control signals: Whenever lane-use-control signals are placed over the individual lanes of a street or highway, as declared in the traffic control manual adopted by the department of transportation, such signals shall indicate and apply to drivers of vehicles as follows:

a. *Downward-pointing green arrow (steady).* A driver facing such signal may drive in any lane over which said green arrow signal is located.

b. *Yellow "X" (steady).* A driver facing such signal is warned that the related green arrow movement is being terminated and shall vacate in a safe manner the lane over which said steady yellow signal is located to avoid if possible occupying that lane when the steady red "X" signal is exhibited.

c. *Yellow "X" (flashing).* A driver facing such signal may use the lane over which said flashing yellow signal is located for the purpose of making a left turn or a passing maneuver, using proper caution, but for no other purpose.

d. *Red "X" (steady).* A driver facing such signal shall not drive in any lane over which said red signal is exhibited.

(Code 1994, § 11.01.604; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-190. Flashing signals.

(a) Whenever an illuminated flashing red or yellow signal is used in conjunction with a traffic sign or a traffic signal or as a traffic beacon, it shall require obedience by vehicular traffic as follows:

(1) When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed past such signal and through the intersection or other hazardous location only with caution.

(b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad crossings shall be governed by the provisions of sections 16-225 to 16-227.

(Code 1994, § 11.01.605; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-191. Display of unauthorized signs or devices.

(a) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(b) Every such prohibited sign, signal or marking is declared to be a public nuisance, and the authority having jurisdiction over the highway is empowered to remove the same or cause it to be removed without notice.

(Code 1994, § 11.01.606; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-192. Interference with official devices.

(a) No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, remove or interfere with the effective operation of any official traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon or any other part thereof.

(b) Using an electronic device, without lawful authority, that causes a traffic light to change shall constitute interference with a traffic control device for the purposes of this section.

(Code 1994, § 11.01.607; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 74, 2004, § 1, 12-21-2004)

Sec. 16-193. Signals by hand or signal device.

(a) Any stop or turn signal when required as provided by section 16-292 shall be given either by means of the hand and arm as provided by this section or by signal lamps or signal device of the type approved by the department of revenue, except as otherwise provided in subsection (b) of this section.

(b) Any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds 24 inches or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles.

(Code 1994, § 11.01.608; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-194. Method of giving hand and arm signals.

All signals required to be given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signals shall indicate as follows:

(1) Left-turn, hand and arm extended horizontally;

(2) Right-turn, hand and arm extended upward;

(3) Stop or decrease speed, hand and arm extended downward.

(Code 1994, § 11.01.609; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-195. Unauthorized insignia.

No owner shall display upon any part of the owner's vehicle any official designation, sign or insignia of any public or quasi-public corporation or municipal, state or national department or governmental subdivision without authority of such agency or any insignia, badge, sign, emblem or distinctive mark of any organization or society of which he is not a bona fide member or otherwise authorized to display such sign or insignia.

(Code 1994, § 11.01.610; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-196. Paraplegic persons or persons with disabilities; distress flag.

(a) Any paraplegic person or person with a disability when in motor vehicle distress is authorized to display by the side of such person's disabled vehicle a white flag of approximately 7 1/2 inches in width and 13 inches in length, with the letter "D" thereon in red color with an irregular one-half-inch red border. Said flag shall be of

reflective material so as to be readily discernible under darkened conditions, and said reflective material must be submitted to and approved by the department of transportation before the same is used.

(b) Any person who is not a paraplegic person or a person with a disability who uses such flag as a signal or for any other purpose is guilty of a traffic offense.

(Code 1994, § 11.01.611; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-197. When signals are inoperative or malfunctioning.

(a) Whenever a driver approaches an intersection and faces a traffic control signal which is inoperative or which remains on steady red or steady yellow during several time cycles, the rules controlling entrance to a through street or highway from a stop street or highway, as provided under section 16-222, shall apply until a police officer assumes control of traffic or until normal operation is resumed. In the event that any traffic control signal at a place other than an intersection should cease to operate or should malfunction as set forth in this section, drivers may proceed through the inoperative or malfunctioning signal only with caution, as if the signal were one of flashing yellow.

(b) Whenever a pedestrian faces a pedestrian-control signal as provided in section 16-255 which is inoperative or which remains on "Don't Walk" or "Wait" during several time cycles, such pedestrian shall not enter the roadway unless the pedestrian can do so safely and without interfering with any vehicular traffic.

(Code 1994, § 11.01.612; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-198. Designation of highway maintenance, repair or construction zones; signs; increase in penalties for speeding violations.

(a) If maintenance, repair or construction activities are occurring or will be occurring within four hours on a portion of a street or public right-of-way, the department of public works may designate such portion of the street or public right-of-way as a street maintenance, repair or construction zone. Any person who commits a speeding violation in a maintenance, repair or construction zone that is designated pursuant to the provisions of this section is subject to the increased penalties and surcharges imposed by section 16-560(d).

(b) The department of public works shall designate a maintenance, repair or construction zone by erecting or placing an appropriate sign in a conspicuous place before the area where the maintenance, repair or construction activity is taking place or will be taking place within four hours. Such sign shall notify the public that increased penalties for speeding violations are in effect in such zone. The department of public works shall erect or place a second sign after such zone indicating that the increased penalties for speeding violations are no longer in effect. A maintenance, repair or construction zone begins at the location of the sign indicating that the increased penalties are in effect and ends at the location of the sign indicating that the increased penalties are no longer in effect.

(c) Signs used for designating the beginning and end of a maintenance, construction or repair zone shall conform to department of transportation requirements. The department of public works may display such signs on any fixed, variable or movable stand. The department of public works may place such a sign on a moving vehicle if required for certain department activities, including, but not limited to, street and highway painting work.

(Code 1994, § 11.01.614; Ord. No. 29, 2003, § 1, 4-1-2003)

Secs. 16-199--16-219. Reserved.

~~PART~~ ARTICLE VII. RIGHTS-OF-WAY

Sec. 16-220. Vehicles approaching or entering intersection.

(a) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(b) The foregoing rule is modified at through highways and otherwise as stated in sections 16-221 to 16-223.

(Code 1994, § 11.01.7010; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-221. Vehicle turning left.

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

(Code 1994, § 11.01.702; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-222. Entering through highway; stop or yield intersection.

(a) Local authorities may erect and maintain stop signs, yield signs or other official traffic control devices to designate through highways or to designate intersections or other roadway junctions at which vehicular traffic on one or more of the roadways is directed to yield or to stop and yield before entering the intersection or junction. In the case of state highways, such regulations shall be subject to the provisions of C.R.S. § 43-2-135(1)(g), as amended from time to time.

(b) Every sign erected pursuant to subsection (a) of this section shall be a standard sign adopted by the department of transportation.

(c) Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

(d) The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways; except that, if a driver is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield right-of-way.

(Code 1994, § 11.01.703; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-223. Vehicle entering roadway.

The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed.

(Code 1994, § 11.01.704; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-224. Operation on approach of emergency vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle making use of audible or visual signals meeting the requirements of section 16-46 or 16-55, the driver of every other vehicle shall yield the right-of-way and where possible shall immediately clear the farthest left-hand lane lawfully available to through traffic and shall drive to a position parallel to, and as close as possible to, the right-hand edge or curb of a roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) (1) a. A driver in a vehicle that is approaching or passing a stationary authorized emergency vehicle that is giving a visual signal by means of flashing, rotating or oscillating red, blue or white lights shall exhibit due care and caution and proceed as described in subsections (2) and (3) of this subsection.

b. A driver in a vehicle that is approaching or passing a maintenance, repair or construction vehicle that is moving at less than 20 miles per hour shall exhibit due care and caution and proceed as described in subsections (b) and (c) of this subsection.

(2) On a highway with at least two adjacent lanes proceeding in the same direction on the same side of the

highway where a stationary authorized emergency vehicle or slow-moving maintenance vehicle is located, the driver of an approaching or passing vehicle shall proceed with due care and caution and yield the right-of-way by moving into a lane at least one moving lane apart from the stationary authorized emergency vehicle or slow-moving maintenance vehicle, unless directed otherwise by a peace officer or other authorized emergency personnel. If movement to an adjacent moving lane is not possible due to weather, road conditions or the immediate presence of vehicular or pedestrian traffic, the driver of the approaching vehicle shall proceed in the manner described in subsection (3) of this subsection.

(3) On a highway that does not have at least two adjacent lanes proceeding in the same direction on the same side of the highway, or if movement by the driver of the approaching vehicle into an adjacent moving lane, as described in subsection (b)(2) of this section, is not possible, the driver of an approaching vehicle shall reduce and maintain a safe speed with regard to the location of the stationary authorized vehicle or slow-moving maintenance vehicle, weather conditions, road conditions, and vehicular or pedestrian traffic and proceed with due care and caution, or as directed by a peace officer or other authorized emergency personnel.

(c) (1) A driver in a vehicle that is approaching or passing a maintenance, repair or construction vehicle that is moving at less than 20 miles per hour shall exhibit due care and caution and proceed as described in subsections (b)(1) and (2) of this section.

(2) On a highway with at least two adjacent lanes proceeding in the same direction on the same side of the highway where a stationary or slow-moving maintenance, repair or construction vehicle is located, the driver of an approaching or passing vehicle shall proceed with due care and caution and yield the right-of-way by moving into a lane at least one moving lane apart from the vehicle, unless directed otherwise by a peace officer or other authorized emergency personnel. If movement to an adjacent moving lane is not possible due to weather, road conditions or the immediate presence of vehicular or pedestrian traffic, the driver of the approaching vehicle shall proceed in the manner described in subsection (c) of this section.

(3) On a highway that does not have at least two adjacent lanes proceeding in the same direction on the same side of the highway where a stationary or slow-moving maintenance, repair or construction vehicle is located, or if movement by the driver of the approaching vehicle into an adjacent moving lane, as described in subsection (b) of this section, is not possible, the driver of an approaching vehicle shall reduce and maintain a safe speed with regard to the location of the stationary or slow-moving maintenance, repair or construction vehicle, weather conditions, road conditions and vehicular or pedestrian traffic, and shall proceed with due care and caution, or as directed by a peace officer or other authorized emergency personnel.

(d) A driver in a vehicle that is approaching or passing a motor vehicle where the tires are being equipped with chains on the side of the highway shall exhibit due care and caution and proceed as described in subsections (1) and (2) of this subsection (d).

(1) On a highway with at least two adjacent lanes proceeding in the same direction on the same side of the highway where chains are being applied to the tires of a motor vehicle, the driver of an approaching or passing vehicle shall proceed with due care and caution and yield the right-of-way by moving into a lane at least one moving lane apart from the vehicle, unless directed otherwise by a peace officer or other authorized emergency personnel. If movement to an adjacent moving lane is not possible due to weather, road conditions or the immediate presence of vehicular or pedestrian traffic, the driver of the approaching vehicle shall proceed in the manner described in subsection (c) of this subsection (d).

(2) On a highway that does not have at least two adjacent lanes proceeding in the same direction on the same side of the highway where chains are being applied to the tires of a motor vehicle, or if movement by the driver of the approaching vehicle into an adjacent moving lane, as described in subsection (b) of this section, is not possible, the driver of an approaching vehicle shall reduce and maintain a safe speed with regard to the location of the motor vehicle where chains are being applied to the tires, weather conditions, road conditions and vehicular or pedestrian traffic and shall proceed with due care and caution, or as directed by a peace officer or other authorized emergency personnel.

(e) Any person who violates this section commits a traffic infraction.

(Code 1994, § 11.01.705; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-225. Obedience to railroad signal.

(a) Any driver of a motor vehicle approaching a railroad crossing sign shall slow down to a speed that is reasonable and safe for the existing conditions. If required to stop for a traffic control device, flagperson or safety before crossing the railroad grade crossing, the driver shall stop at the marked stop line, if any. If no such stop line exists, the driver shall:

(1) Stop not less than 15 feet nor more than 50 feet from the nearest rail of the railroad grade crossing and shall not proceed until the railroad grade can be crossed safely; or

(2) In the event the driver would not have a reasonable view of approaching trains when stopped pursuant to subsection (a)(1), the driver shall stop before proceeding across the railroad grade crossing at the point nearest such crossing where the driver has a reasonable view of approaching trains and shall not proceed until the railroad grade can be crossed safely.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed, nor shall any pedestrian pass through, around, over or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.

(Code 1994, § 11.01.706; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-226. Certain vehicles must stop at railroad grade crossings.

(a) Except as otherwise provided in this section, the driver of any motor vehicle carrying more than six passengers for hire, or of any school bus carrying any schoolchild, or of any vehicle carrying hazardous materials which is required to be placarded in accordance with regulations issued pursuant to subsection (e) of this section, before crossing at grade any tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train and shall not proceed until the driver can do so safely. After stopping as required in this section and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not manually shift gears while crossing the tracks.

(b) This section shall not apply at street railway grade crossings within a business or residence district.

(c) When stopping as required at such railroad crossing, the driver shall keep as far to the right of the roadway as possible and shall not form two lanes of traffic unless the roadway is marked for four or more lanes of traffic.

(d) Subsection (a) of this section shall not apply at:

(1) Any railroad grade crossing protected by crossing gates or an alternately flashing light intended to give warning of the approach of a railroad train as provided in section 16-225;

(2) Any railroad grade crossing at which traffic is regulated by a traffic control signal;

(3) Any railroad grade crossing at which traffic is controlled by a police officer or human flagperson;

(4) Any railroad crossing where state or local road authorities within their respective jurisdictions have determined that trains are not operating during certain periods or seasons of the year and have erected an official sign carrying the legend "exempt," which shall give notice when so posted that such crossing is exempt from the stopping requirement provided for in this section.

(e) For the purposes of this section, the definition of the term "hazardous materials" shall be the definition contained in the rules and regulations adopted by the chief of the state patrol pursuant to C.R.S. title 42, as amended from time to time.

(Code 1994, § 11.01.707; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-227. Moving heavy equipment at railroad grade crossing.

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick or roller or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than nine inches above the level surface of a roadway upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Notice of any such intended crossing shall be given to a superintendent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

(c) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad, and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagperson or otherwise of the immediate approach of a railroad train or car.

(e) Subsection (c) of this section shall not apply at any railroad crossing where state or local road authorities within their respective jurisdictions have determined that trains are not operating during certain periods or seasons of the year and have erected an official sign carrying the legend exempt, which shall give notice when so posted that such crossing is exempt from the stopping requirement provided in this section.

(Code 1994, § 11.01.708; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-228. Stop when traffic obstructed.

No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, notwithstanding the indication of any traffic control signal to proceed.

(Code 1994, § 11.01.709; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-229. Emerging from or entering alley, driveway or building.

(a) The driver of a vehicle emerging from an alley, driveway, building, parking lot or other place, immediately prior to driving onto a sidewalk or into the sidewalk area extending across any such alleyway, driveway or entranceway, shall yield the right-of-way to any pedestrian upon or about to enter such sidewalk or sidewalk area extending across such alleyway, driveway or entranceway, as may be necessary to avoid collision, and when entering the roadway shall comply with the provisions of section 16-223.

(b) The driver of a vehicle entering an alley, driveway or entranceway shall yield the right-of-way to any pedestrian within or about to enter the sidewalk or sidewalk area extending across such alleyway, driveway or entranceway.

(c) No person shall drive any vehicle other than a bicycle or any other human-powered vehicle upon a sidewalk or sidewalk area, except upon a permanent or duly authorized temporary driveway.

(Code 1994, § 11.01.710; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-230. Driving in highway work area.

(a) The driver of a vehicle shall yield the right-of-way to any authorized vehicle or pedestrian engaged in work upon a highway within any highway construction or maintenance work area indicated by official traffic control devices.

(b) The driver of a vehicle shall yield the right-of-way to any authorized service vehicle engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of section 16-47.

(c) Local road authorities, in cooperation with law enforcement agencies, may train and appoint adult civilian personnel for special traffic duty as highway flagpersons within any highway maintenance or construction work area. Whenever such duly authorized flagpersons are wearing the badge, insignia or uniform of their office, are engaged in the performance of their respective duties and are displaying any official hand signal device of a

type and in the manner prescribed in the adopted state traffic control manual or supplement thereto for signaling traffic in such areas to stop or to proceed, no person shall willfully fail or refuse to obey the visible instructions or signals so displayed by such flagpersons. Any alleged willful failure or refusal of a driver to comply with such instructions or signals, including information as to the identity of the driver and the license plate number of the vehicle alleged to have been so driven in violation, shall be reported by the work area supervisor in charge at the location to the district attorney for appropriate penalizing action in a court of competent jurisdiction.

(Code 1994, § 11.01.712; Ord. No. 80, 1997, § 2, 12-16-1997)

Secs. 16-231--16-253. Reserved.

~~PART~~ ARTICLE VIII. PEDESTRIANS

Sec. 16-254. Pedestrian obedience to traffic control devices and traffic regulations.

(a) A pedestrian shall obey the instructions of any official traffic control device specifically applicable to the pedestrian, unless otherwise directed by a police officer.

(b) Pedestrians shall be subject to traffic and pedestrian-control signals as provided in sections 16-189 and 16-255(e).

(c) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

(Code 1994, § 11.01.801; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-255. Pedestrians' right-of-way in crosswalks.

(a) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) Subsection (a) of this section shall not apply under the conditions stated in section 16-256.

(c) No pedestrian shall suddenly leave a curb or other place of safety and ride a bicycle, ride an electrical assisted bicycle, walk or run into the path of a moving vehicle which is so close as to constitute an immediate hazard.

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(e) Whenever special pedestrian-control signals exhibiting "Walk" or "Don't Walk" word or symbol indications are in place, as declared in the traffic control manual adopted by the department of transportation, such signals shall indicate and require as follows:

(1) "Walk" (steady). While the "Walk" indication is steadily illuminated, pedestrians facing such signal may proceed across the roadway in the direction of the signal indication and shall be given the right-of-way by the drivers of all vehicles.

(2) "Don't Walk" (steady). While the "Don't Walk" indication is steadily illuminated, no pedestrian shall enter the roadway in the direction of the signal indication.

(3) "Don't Walk" (flashing). Whenever the "Don't Walk" indication is flashing, no pedestrian shall start to cross the roadway in the direction of such signal indication, but any pedestrian who has partly completed his crossing during the "Walk" indication shall proceed to a sidewalk or to a safety island, and all drivers of vehicles shall yield to any such pedestrian.

(4) Whenever a signal system provides for the stopping of all vehicular traffic and the exclusive movement of pedestrians and "Walk" and "Don't Walk" signal indications control such pedestrian movement, pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection while the "Walk" indication is exhibited, if signals and other

official devices direct pedestrian movement in such manner consistent with subsection 16-256(d).

(Code 1994, § 11.01.802; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-256. Crossing at other than crosswalks.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

(Code 1994, § 11.01.803; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-257. Pedestrian to use right half of crosswalk.

Pedestrians shall move whenever practicable upon the right half of crosswalks.

(Code 1994, § 11.01.804; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-258. Pedestrians walking or traveling in a wheelchair on highways.

(a) Pedestrians walking or traveling in a wheelchair along and upon highways where sidewalks are not provided shall walk or travel only on a road shoulder as far as practicable from the edge of the roadway. Where neither a sidewalk nor road shoulder is available, any pedestrian walking or traveling in a wheelchair along and upon a highway shall walk as near as practicable to an outside edge of the roadway and, in the case of a two-way roadway, shall walk or travel only on the left side of the roadway facing traffic that may approach from the opposite direction; except that any person lawfully soliciting a ride may stand on either side of such two-way roadway where there is a view of traffic approaching from both directions.

(b) No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle. For the purposes of this subsection (b), the term "roadway" means that portion of the road normally used by moving motor vehicle traffic.

(c) It is unlawful for any person who is under the influence of alcohol or of any controlled substance, as defined in C.R.S. title 18, as amended from time to time, or of any stupefying drug, to walk or be upon that portion of any highway normally used by moving motor vehicle traffic.

(d) This section applying to pedestrians shall also be applicable to riders of animals.

(e) The city may, by ordinance, regulate the use by pedestrians of streets and highways under its jurisdiction to the extent authorized under subsection (f) of this section and C.R.S. title 42, as amended from time to time, but no ordinance regulating such use of streets and highways in a manner differing from this section shall be effective until official signs or devices giving notice thereof have been placed as required by C.R.S. § 42-4-111(2), as amended from time to time.

(f) No person shall solicit a ride on any highway included in the interstate system, as defined in C.R.S. title 43, article 2, part 1, as amended from time to time, except at an entrance to or exit from such highway or at places specifically designated by the department of transportation; or, in an emergency affecting a vehicle or its operation, a driver or passenger of a disabled vehicle may solicit a ride on any highway.

(g) Pedestrians shall only be picked up where there is adequate road space for vehicles to pull off and not endanger and impede the flow of traffic.

(h) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of section 16-46 or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the authorized emergency vehicle and shall

leave the roadway and remain off the same until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. This subsection (h) shall not relieve the driver of an authorized emergency vehicle from the duty to use due care as provided in section 16-260.

(Code 1994, § 11.01.805; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 07, 2011, § 1, 2-1-2011; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-259. Driving through safety zone prohibited.

No vehicle at any time shall be driven through or within a safety zone.

(Code 1994, § 11.01.806; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-260. Drivers to exercise due care.

Notwithstanding any of the provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person upon a roadway.

(Code 1994, § 11.01.807; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-261. Drivers and pedestrians, other than persons in wheelchairs, to yield to persons with disabilities.

Any pedestrian, other than a person in a wheelchair, or any driver of a vehicle who approaches a person who has an obviously apparent disability of blindness, deafness or mobility impairment shall immediately come to a full stop and take such precautions before proceeding as are necessary to avoid an accident or injury to said person. A disability shall be deemed to be obviously apparent if, by way of example and without limitation, the person is using a cane or crutches, is assisted by a guide dog, service dog or hearing dog, is being assisted by another person, is in a wheelchair or is walking with an obvious physical impairment.

(Code 1994, § 11.01.808; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-262. Pedestrians not to remain on medians.

(a) No pedestrian may remain upon a median for longer than is reasonably necessary to cross the street.

(b) This section does not apply to persons maintaining or working on the median for the government which owns the underlying road or public right-of-way or for a public utility.

(c) This section does not apply to a street closed to vehicular traffic for the purposes of permitted activity on the street or roadway.

(d) A violation of this section is a traffic infraction and shall be punishable under chapter 9 of title 1 of this Code.

(Code 1994, § 11.01.809; Ord. No. 24, 2015, § 2(exh. A), 7-7-2015)

Sec. 16-263. Conduct in public rights-of-way distracting to drivers on the roadway.

(a) It shall be unlawful for any person to intentionally engage in conduct in the public right-of-way that distracts a driver of a vehicle traveling upon any street, road or highway from such street, road or highway in a manner that causes a dangerous situation or impedes traffic. The following conduct shall be prima facie evidence of a violation of this section:

(1) Conduct which causes the person performing the activity to enter onto the traveled portion of a street or highway; or

(2) Conduct which causes the traffic on the traveled portion of a street or highway to be delayed or impeded.

(b) For the purposes of this section, the traveled portion of a street or highway shall mean the entire width intended for vehicle traffic between the boundary lines of every public right-of-way open to the use of the public; or the entire width of every public street or highway as designated by any law of this state.

(c) A violation of this section is a traffic infraction and shall be punishable under chapter 9 of title 1 of this Code.

(Code 1994, § 11.01.810; Ord. No. 24, 2015, § 3(exh. A), 7-7-2015)

Secs. 16-264--16-289. Reserved.

~~PART~~ ARTICLE IX. TURNING, STOPPING

Sec. 16-290. Required position and method of turning.

(a) The driver of a motor vehicle intending to turn shall do so as follows:

(1) *Right turns*. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) *Left turns*. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn shall be made to the left of the center of the intersection so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

(3) *Two-way left-turn lanes*. Where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by official traffic control devices in the manner prescribed in the state traffic control manual, a left turn shall not be made from any other lane, and a vehicle shall not be driven in said special lane except when preparing for or making a left turn from or into the roadway or when preparing for or making a U-turn when otherwise permitted by law.

(b) Local authorities may cause official traffic control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and, when such devices are so placed, no driver shall turn a vehicle other than as directed and required by such devices. In the case of streets which are a part of the state highway system, the local regulation shall be subject to the approval of the department of transportation.

(Code 1994, § 11.01.901; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-291. Limitations on turning around.

(a) No vehicle shall be turned so as to proceed in the opposite direction upon any curve or upon the approach to or near the crest of a grade where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within such distance as is necessary to avoid interfering with or endangering approaching traffic.

(b) The driver of any vehicle shall not turn such vehicle at an intersection or any other location so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with or endangering other traffic.

(c) The city, subject to the provisions of C.R.S. title 43, as amended from time to time, in the case of streets which are state highways, may erect U-turn prohibition or restriction signs at intersections or other locations where such movements are deemed to be hazardous, and, whenever official signs are so erected, no driver of a vehicle shall disobey the instructions thereof.

(Code 1994, § 11.01.902; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-292. Turning movements and required signals.

(a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in section 16-290, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety and then only after giving an appropriate signal in the manner provided in sections 16-193 and 16-194.

(b) A signal of intention to turn right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning in urban or metropolitan areas and shall be given continuously for at least 200 feet on all four-lane highways and other highways where the prima facie or posted speed limit is more than 40 miles per hour. Such signals shall be given regardless of existing weather conditions.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in sections 16-193 and 16-194 to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) The signals provided for in section 16-193(b) shall be used to indicate an intention to turn, change lanes or start from a parked position and shall not be flashed on one side only on a parked or disabled vehicle or flashed as a courtesy or do pass signal to operators of other vehicles approaching from the rear.

(Code 1994, § 11.01.903; Ord. No. 80, 1997, § 2, 12-16-1997)

Secs. 16-293--16-317. Reserved.

~~PART~~ ARTICLE X. DRIVING, OVERTAKING, PASSING

Sec. 16-318. Drive on right side; exceptions.

(a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(2) When an obstruction exists making it necessary to drive to the left of the center of the highway; but any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(3) Upon a roadway divided into three lanes for traffic under the rules applicable thereon; or

(4) Upon a roadway restricted to one-way traffic as indicated by official traffic control devices.

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes or except as permitted under subsection (a)(2) of this section. However, this subsection (c) does not prohibit the crossing of the centerline in making a left turn into or from an alley, private road or driveway when such movement can be made in safety and without interfering with, impeding or endangering other traffic lawfully using the highway.

(Code 1994, § 11.01.1001; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-319. Passing oncoming vehicles.

(a) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and, upon roadways having width for not more than one lane of traffic in each direction, each driver shall give to the other at least 1/2 of the main-traveled portion of the roadway as nearly as possible.

(b) A driver shall not pass a bicyclist moving in the same direction and in the same lane when there is oncoming traffic unless the driver can simultaneously:

(1) Allow oncoming vehicles at least 1/2 of the main-traveled portion of the roadway in accordance with subsection (a) of this section; and

(2) Allow the bicyclist at least a three-foot separation between the right side of the driver's vehicle, including all mirrors or other projections, and the left side of the bicyclist at all times.

(Code 1994, § 11.01.1002; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-320. Overtaking a vehicle on the left.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations, exceptions and special rules stated in this section and sections 16-321 to 16-325:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) The driver of a motor vehicle overtaking a bicyclist proceeding in the same direction shall allow the bicyclist at least a three-foot separation between the right side of the driver's vehicle, including all mirrors or other projections, and the left side of the bicyclist at all times.

(3) Except when overtaking and passing on the right is permitted the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of the driver's vehicle until completely passed by the overtaking vehicle.

(Code 1994, § 11.01.1003; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-321. When overtaking on the right is permitted.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(1) When the vehicle overtaken is making or giving indication of making a left turn;

(2) Upon a street or highway with unobstructed pavement not occupied by parked vehicles and marked for two or more lanes of moving vehicles in each direction; or

(3) Upon a one-way street or upon any roadway on which traffic is restricted to one direction of movement where the roadway is free from obstructions and marked for two or more lanes of moving vehicles.

(b) The driver of a motor vehicle upon a one-way roadway with two or more marked traffic lanes, when overtaking a bicyclist proceeding in the same direction and riding on the left-hand side of the road, shall allow the bicyclist at least a three-foot separation between the left side of the driver's vehicle, including all mirrors or other projections, and the right side of the bicyclist at all times.

(c) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

(Code 1994, § 11.01.1004; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-322. Limitations on overtaking on the left.

(a) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless authorized by the provisions of this chapter and unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completed without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and, in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle.

(b) No vehicle shall be driven on the left side of the roadway under the following conditions:

(1) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) When approaching within 100 feet of or traversing any intersection or railroad grade crossing; or

(3) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.

(c) Local authorities are authorized to determine those portions of any highway where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or

markings on the roadway indicate the beginning and end of such zones. Where such signs or markings are in place to define a no-passing zone and such signs or markings are clearly visible to an ordinarily observant person, no driver shall drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

(d) The provisions of this section shall not apply:

(1) Upon a one-way roadway;

(2) Under the conditions described in subsection 16-318(a)(2);

(3) To the driver of a vehicle turning left into or from an alley, private road or driveway when such movement can be made in safety and without interfering with, impeding or endangering other traffic lawfully using the highway; or

(4) To the driver of a vehicle passing a bicyclist moving the same direction and in the same lane when such movement can be made in safety and without interfering with, impeding or endangering other traffic lawfully using the highway.

(Code 1994, § 11.01.1005; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-323. One-way roadways and rotary traffic islands.

(a) Upon a roadway restricted to one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic control devices.

(b) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

(c) The city, with respect to highways under its jurisdiction, may designate any roadway, part of a roadway or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic control devices. In the case of streets which are a part of the state highway system, the regulation shall be subject to the approval of the department of transportation pursuant to C.R.S. title 43, as amended from time to time.

(Code 1994, § 11.01.1006; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-324. Driving on roadways laned for traffic.

(a) Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent with this section shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn, or where such center lane is at the time allocated exclusively to the traffic moving in the direction the vehicle is proceeding and is designated by official traffic control devices to give notice of such allocation. Under no condition shall an attempt be made to pass upon the shoulder or any portion of the roadway remaining to the right of the indicated right-hand traffic lane.

(3) Official traffic control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, and drivers of vehicles shall obey the directions of every such device.

(4) Official traffic control devices may be installed prohibiting the changing of lanes on sections of roadway, and drivers of vehicles shall obey the directions of every such device.

(Code 1994, § 11.01.1007; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-325. Following too closely.

(a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and

prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(b) The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger; except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

(c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

(Code 1994, § 11.01.1008; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-326. Crowding or threatening a bicyclist.

(a) The driver of a motor vehicle shall not, in a careless and imprudent manner, drive the vehicle unnecessarily close to, toward or near a bicyclist.

(b) Any person who violates subsection (a) of this section commits careless driving as described in section 16-460.

(Code 1994, § 11.01.1008.5; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-327. Coasting prohibited.

(a) The driver of any motor vehicle when traveling upon a downgrade shall not coast with the gears or transmission of such vehicle in neutral.

(b) The driver of a truck or bus when traveling upon a downgrade shall not coast with the clutch disengaged.

(Code 1994, § 11.01.1009; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-328. Driving on divided or controlled-access highways.

(a) Whenever any highway has been divided into separate roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway, unless directed or permitted to use another roadway by official traffic control devices. No vehicle shall be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection as established, unless specifically prohibited by official signs and markings or by the provisions of section 16-291. However, this subsection (a) does not prohibit a left turn across a median island formed by standard pavement markings or other mountable or traversable devices as prescribed in the state traffic control manual when such movement can be made in safety and without interfering with, impeding or endangering other traffic lawfully using the highway.

(b) (1) No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

(2) Wherever an acceleration lane has been provided in conjunction with a ramp entering a controlled-access highway and the ramp intersection is not designated or signed as a stop or yield intersection as provided in subsection 16-222(a), drivers may use the acceleration lane to attain a safe speed for merging with through traffic when conditions permit such acceleration with safety; but traffic so merging shall be subject to the rule governing the changing of lanes as set forth in subsection 16-324(a)(1).

(3) Wherever a deceleration lane has been provided in conjunction with a ramp leaving a controlled-access highway, drivers shall use such lane to slow to a safe speed for making an exit turn after leaving the mainstream of faster-moving traffic.

(c) The city may by ordinance consistent with the provisions of C.R.S. title 43, as amended from time to time, with respect to any controlled-access highway under its jurisdiction, prohibit the use of any such highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic. After

adopting such prohibitory regulations, local authorities shall install official traffic control devices in conformity with the standards established by sections 16-2 and 16-186 at entrance points or along the highway on which such regulations are applicable. When such devices are so in place, giving notice thereof, no person shall disobey the restrictions made known by such devices.

(Code 1994, § 11.01.1010; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-329. Use of runaway vehicle ramps.

(a) No person shall use a runaway vehicle ramp unless such person is in an emergency situation requiring use of the ramp to stop his vehicle.

(b) No person shall stop, stand or park a vehicle on a runaway vehicle ramp or in the pathway of the ramp.

(Code 1994, § 11.01.1011; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-330. High occupancy vehicle lanes.

(a) The department of transportation and local authorities, with respect to streets and highways under their respective jurisdictions, may designate exclusive or preferential lanes for vehicles that carry a specified number of persons. The occupancy level of vehicles and the time of day when lane usage is restricted to high occupancy vehicles, if applicable, shall be designated by official traffic control devices.

(b) A motorcycle may be operated upon high occupancy vehicle lanes where authorized under state law, unless prohibited by official traffic control devices.

(Code 1994, § 11.01.1012; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-331. Passing lane; definitions; penalty.

(a) A person shall not drive a motor vehicle in the passing lane of a highway if the speed limit is 65 miles per hour or more unless such person is passing other motor vehicles that are in a nonpassing lane or turning left or unless the volume of traffic does not permit the motor vehicle to safely merge into a nonpassing lane.

(b) For the purposes of this section:

(1) The term "nonpassing lane" means any lane that is to the right of the passing lane if there are two or more adjacent lanes of traffic moving in the same direction in one roadway.

(2) The term "passing lane" means the farthest to the left lane if there are two or more adjacent lanes of traffic moving in the same direction in one roadway; except that, if such left lane is restricted to high occupancy vehicle use or is designed for left turns only, the passing lane shall be the lane immediately to the right of such high occupancy lane or left turn lane.

(Code 1994, § 11.01.1013; Ord. No. 08, 2011, § 1, 2-15-2011)

Secs. 16-332--16-350. Reserved.

~~PART~~ ARTICLE XI. SPEED REGULATIONS

Sec. 16-351. Speed limits.

(a) No person shall drive a vehicle on a street or highway within the city at a speed greater than is reasonable and prudent under the conditions then existing.

(b) Except when a special hazard exists that requires a lower speed, and except when a lower speed has been designated pursuant to section 16-352, the following speeds shall be lawful:

(1) Twenty miles per hour on blind curves;

(2) Twenty-five miles per hour in any business district, as defined in subsection 16-2;

(3) Thirty miles per hour in any residential district, as defined in subsection 16-2;

(4) Fifteen miles per hour in all alleys;

(5) Forty-five miles per hour for all vehicles in the business of transporting trash, where higher speeds are posted, when said vehicle is loaded as an exempted vehicle pursuant to C.R.S. title 42, as amended from

time to time;

(6) Fifty-five miles per hour on other open streets and highways;

(7) In all school zones with signs erected and posted giving notice thereof, the speed limit shall be 20 miles per hour;

(8) Any speed not in excess of a speed limit designated by an official traffic control device.

(c) Except as otherwise provided in subsection (d) of this section, any speed in excess of the lawful speeds set forth in subsection (b) of this section shall be prima facie evidence that such speed was not reasonable or prudent under the conditions then existing. As used in this subsection (c), the term "prima facie evidence" means evidence which is sufficient proof that the speed was not reasonable or prudent under the conditions then existing, and which will remain sufficient proof of such fact, unless contradicted and overcome by evidence bearing upon the question of whether or not the speed was reasonable and prudent under the conditions then existing.

(d) Notwithstanding any other provision of this section, no person shall drive a vehicle on a street or highway within the city at a speed in excess of a maximum lawful speed limit of 55 miles per hour. The speed limit set forth in this subsection is a maximum lawful speed limit that is not subject to the provisions of subsection (c) of this section.

(e) In every charge of violating subsection (a) or subsection (d) of this section, the complaint, summons and complaint or penalty assessment notice shall specify the speed at which the defendant is alleged to have driven and also the alleged reasonable and prudent speed applicable at the specified time and location of the alleged violation, or the maximum lawful speed of 55 miles per hour.

(f) The conduct of a driver of a vehicle which would otherwise constitute a violation of this section is justifiable and not unlawful when:

(1) It is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no conduct of said driver and which is of sufficient gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweigh the desirability of avoiding the consequences sought to be prevented by this section; or

(2) With respect to authorized emergency vehicles, the applicable conditions for exemption, as set forth in section 16-8 exist.

(g) The minimum requirement for commission of a violation under this section is the performance by a driver of prohibited conduct, which includes a voluntary act or the omission to perform an act which said driver is physically capable of performing.

(h) It shall not be a defense to prosecution for a violation of this section that:

(1) The defendant's conduct was not performed intentionally, knowingly, recklessly or with criminal negligence;

(2) The defendant's conduct was performed under a mistaken belief of fact, including, but not limited to, a mistaken belief of the defendant regarding the speed of the defendant's vehicle; or

(3) The defendant's vehicle has a greater operating or fuel-conserving efficiency at speeds greater than the reasonable and prudent speed under the conditions then existing or at speeds greater than the maximum lawful speed limit.

(i) Notwithstanding any other provision of this section, no person shall drive a low-power scooter on a roadway at a speed in excess of 40 miles per hour.

(Code 1994, § 11.01.1101; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-352. Altering of speed limits; when.

(a) Whenever municipal authorities determine upon the basis of a traffic investigation or survey, or upon the basis of appropriate design standards and projected traffic volumes in the case of newly constructed highways or

segments thereof, that any speed specified or established as authorized under sections 16-351 to 16-354 is greater or less than is reasonable or safe under the road and traffic conditions at any intersection or other place or upon any part of a street or highway in its jurisdiction, said local authority shall determine and declare a reasonable and safe speed limit thereat which shall be effective when appropriate signs giving notice thereof are erected at such intersection or other place or upon the approaches thereto. No such local authority shall have the power to alter the basic rules set forth in subsection 16-351(a) or in any event to authorize by resolution or ordinance a speed in excess of 55 miles per hour for so long as the state maximum speed limit of 55 miles per hour is in effect pursuant to C.R.S. title 42, as amended from time to time.

(b) Municipal authorities shall determine upon the basis of a traffic investigation or survey the proper speed for all arterial streets and shall declare a reasonable and safe speed limit thereon which may be greater or less than the speed specified under subsections 16-351(2)(b) or (2)(c). Such speed limit shall not exceed 55 miles per hour and shall become effective when appropriate signs are erected giving notice thereof. For the purposes of this subsection (b), the term "arterial street" means any United States or state-numbered route, controlled-access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.

(c) No alteration of speed limits on state highways within the city shall be effective until such alteration has been approved in writing by the department of transportation.

(d) Whenever local authorities determine upon the basis of a traffic investigation or survey that a reduced speed limit is warranted in a school or construction area or other place during certain hours or periods of the day when special or temporary hazards exist, local authorities may erect or display official signs of a type prescribed in the state traffic control manual giving notice of the appropriate speed limit for such conditions and stating the time or period the regulation is effective. When such signs are erected or displayed, the lawful speed limit at the particular time and place shall be that which is then indicated upon such signs; except that no such speed limit shall be less than 20 miles per hour on a state highway or other arterial street as defined in subsection (b) of this section nor less than 15 miles per hour on any other road or street, nor shall any such reduced speed limit be made applicable at times when the special conditions for which it is imposed cease to exist. Such reduced speed limits on streets which are state highways shall be subject to the written approval of the department of transportation before becoming effective.

(e) In its discretion, the city may by ordinance impose and enforce stop sign regulations and speed limits, not inconsistent with the provisions of sections 16-351 to 16-354, upon any way which is open to travel by motor vehicles and which is privately maintained in mobile home parks, when appropriate signs giving notice of such enforcement are erected at the entrances to such ways. Unless there is an agreement to the contrary, the jurisdiction ordering the regulations shall be responsible for the erection and maintenance of the signs.

(Code 1994, § 11.01.1102; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-353. Minimum speed regulation.

(a) No person shall drive a motor vehicle on any highway at such a slow speed as to impede or block the normal and reasonable forward movement of traffic, except when a reduced speed is necessary for safe operation of such vehicle or in compliance with law.

(b) Whenever municipal authorities determine, on the basis of an engineering and traffic investigation, as described in the state traffic control manual, that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, local authorities may determine and declare a minimum speed limit below which no person shall drive a vehicle, except when necessary for safe operation or in compliance with law.

(c) Notwithstanding any minimum speed that may be authorized and posted pursuant to this section, if any person drives a motor vehicle on any controlled-access highway at a speed less than the normal and reasonable speed of traffic under the conditions then and there existing and by so driving at such slower speed impedes or retards the normal and reasonable movement of vehicular traffic following immediately behind, then such driver shall:

(1) Where the width of the traveled way permits, drive in the right-hand lane available to traffic or on the extreme right side of the roadway consistent with the provisions of subsection 16-318(b) until such

impeded traffic has passed by; or

(2) Pull off the roadway at the first available place where such movement can safely and lawfully be made until such impeded traffic has passed by.

(d) Wherever special uphill traffic lanes or roadside turnouts are provided and posted, drivers of all vehicles proceeding at less than the normal and reasonable speed of traffic shall use such lanes or turnouts to allow other vehicles to pass or maintain normal traffic flow.

(Code 1994, § 11.01.1103; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-354. Speed limits on elevated structures.

(a) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is signposted as provided in this section.

(b) The department of transportation, upon request from any local authority, shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and, if it finds that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under C.R.S. title 42, as amended from time to time, said department shall determine and declare the maximum speed of vehicles which such structure can withstand and shall cause or permit suitable standard signs stating such maximum speed to be erected and maintained before each end of such structure in conformity with the state traffic control manual.

(c) Upon the trial of any person charged with a violation of this section, proof of said determination of the maximum speed by said department and the existence of said signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure.

(Code 1994, § 11.01.1104; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-355. Speed contests, speed exhibitions; aiding and facilitating; immobilization of motor vehicle; definitions.

(a) (1) Except as otherwise provided in subsection (d) of this section, it is unlawful for a person to knowingly engage in a speed contest on a roadway.

(2) For the purposes of this section, the term "speed contest" means the operation of one or more motor vehicles to conduct a race or a time trial, including, but not limited to, rapid acceleration, exceeding reasonable and prudent speeds for highways and existing traffic conditions, vying for position or performing one or more lane changes in an attempt to gain advantage over one or more of the other race participants.

(b) (1) Except as otherwise provided in subsection (d) of this section, it is unlawful for a person to knowingly engage in a speed exhibition on a roadway.

(2) For the purposes of this section, the term "speed exhibition" means the operation of a motor vehicle to present a display of speed or power. The term "speed exhibition" includes, but is not limited to, squealing the tires of a motor vehicle while it is stationary or in motion, rapid acceleration, rapid swerving or weaving in and out of traffic, producing smoke from tire slippage, or leaving visible tire acceleration marks on the surface of the roadway or ground.

(c) Except as otherwise provided in subsection (d) of this section, a person shall not, for the purpose of facilitating or aiding or as an incident to any speed contest or speed exhibition upon a roadway, in any manner obstruct or place a barricade or obstruction, or assist or participate in placing any such barricade or obstruction upon a roadway.

(d) The provisions of this section shall not apply to the operation of a motor vehicle in an organized competition according to accepted rules on a designated and duly authorized racetrack, race course or drag strip.

(Code 1994, § 11.01.1105; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-356. Special hazards.

No driver of a vehicle shall fail to decrease the speed of such vehicle from an otherwise lawful speed to a reasonable and prudent speed when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or street and highway conditions.

(Code 1994, § 11.01.1106; Ord. No. 80, 1997, § 2, 12-16-1997)

Secs. 16-357--16-385. Reserved.

~~PART~~ ARTICLE XII. TRAFFIC INFRACTIONS RELATED TO PARKING

Sec. 16-386. Violation.

Unless otherwise designated, violations of this chapter shall be designated traffic infractions and shall be punishable as set forth in chapter 9 of title 1 of this Code.

(Code 1994, § 11.01.1200; Ord. No. 27, 2010, § 1, 7-20-2010; Ord. No. 09, 2011, § 1, 2-15-2011; Ord. No. 12, 2019, exh. E, § 11.01.1200, 3-19-2019)

Sec. 16-387. Starting parked vehicle.

No person shall start a vehicle which vehicle that is stopped, standing or parked unless and until such movement can be made with reasonable safety.

(Code 1994, § 11.01.1201; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000; Ord. No. 09, 2011, § 1, 2-15-2011; Ord. No. 12, 2019, exh. E, § 11.01.1201, 3-19-2019)

~~**Sec. 16-388. Repealed.**~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1202; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000; Ord. No. 09, 2011, § 1, 2-15-2011)~~

~~**Sec. 16-389. Repealed.**~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1204; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000; Ord. No. 22, 2006, § 1, 5-16-2006)~~

~~**Sec. 16-390. Repealed.**~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1205; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000)~~

Sec. 16-388. Unattended motor vehicle.

(a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition and effectively setting the brake thereon, and, when standing upon any grade, said person shall turn the front wheels to the curb or side of the highway in such a manner as to prevent the vehicle from rolling onto the traveled way.

(b) The use or operation of a remote starter system and adequate security measures is sufficient to comply with subsection (a) of this section.

(c) As used in this section:

(1) The term "adequate security measures" includes, but is not limited to:

a. Using a vehicle that requires a key to put the vehicle into gear and move the vehicle;

b. Keeping a keyless start fob out of proximity of the vehicle; or

c. Employing steering wheel security devices.

(2) The term "remote starter system" means a device installed in a motor vehicle that allows the engine of the vehicle to be started by remote or radio control.

(d) No person shall allow an unattended motor vehicle to remain idling for more than 20 minutes from the time the motor was started, by remote starter or other means. As used in this subsection (d), the term "unattended" means that the vehicle has not moved from its original position and has not been occupied by a person possessing a valid driver's license.

(Code 1994, § 11.01.1206; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000; Ord. No. 31, 2017, § 1(exh. A), 8-1-2017; Ord. No. 12, 2019, exh. E, § 11.01.1206, 3-19-2019)

Sec. 16-389. Opening and closing vehicle doors.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic; nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

(Code 1994, § 11.01.1207; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000; Ord. No. 12, 2019, exh. E, § 11.01.1207, 3-19-2019)

~~**Sec. 16-393. Repealed.**~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1208; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000)~~

~~**Sec. 16-394. Repealed.**~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1209; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000)~~

Sec. 16-390. Limitations on backing.

(a) The driver of a vehicle, whether on public property or private property which is used by the general public for parking purposes, shall not back the same unless such movement can be made with safety and without interfering with other traffic.

(b) The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway.

(Code 1994, § 11.01.1211; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000; Ord. No. 12, 2019, exh. E, § 11.01.1211, 3-19-2019)

~~**Sec. 16-396. Repealed.**~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1212; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000)~~

~~**Sec. 16-397. Repealed.**~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1213; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 17, 1999, §§ 1, 2, 4-20-1999; Ord. No. 54, 2000, § 1(part), 10-17-2000; Ord. No. 7, 2004, § 1, 2-17-2004; Ord. No. 04, 2008, § 3, 2-5-2008)~~

~~**Sec. 16-398. Repealed.**~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1214; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000)~~

~~**Sec. 16-399. Repealed.**~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1215; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000; Ord. No. 56, 2002, § 1, 10-15-2002; Ord. No. 38, 2008, § 1, 9-2-2008; Ord. No. 28, 2012, § 1, 7-17-2012)~~

~~Sec. 16-400. Repealed.~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1216; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000)~~

~~Sec. 16-401. Repealed.~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1217; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000; Ord. No. 51, 2011, § 1, 12-20-2011)~~

~~Sec. 16-402. Repealed.~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1218; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000)~~

~~Sec. 16-403. Repealed.~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1219; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000)~~

~~Sec. 16-404. Repealed.~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1220; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000)~~

~~Sec. 16-405. Repealed.~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1221; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000; Ord. No. 1, 2002, § 1(part), 1-15-2002; Ord. No. 22, 2006, § 1, 5-16-2006; Ord. No. 27, 2010, § 1, 7-20-2010; Ord. No. 09, 2011, § 1, 2-15-2011)~~

~~Sec. 16-406. Repealed.~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1222; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 54, 2000, § 1(part), 10-17-2000; Ord. No. 1, 2002, § 1(part), 1-15-2002; Ord. No. 57, 2003, § 1, 8-19-2003; Ord. No. 27, 2010, § 1, 7-20-2010; Ord. No. 09, 2011, § 1, 2-15-2011)~~

Sec. 16-391. Authority to impound vehicles.

(a) The city shall have the authority to impound vehicles as provided in article 18 of this title. In addition to circumstances set forth in article 18 of this title, the city may impound any vehicle and order the vehicle towed to an impound lot or the item, article or object removed when:

(1) Any vehicle is found parked upon any public street or public right-of-way in violation of the parking restrictions or prohibitions contained on any official sign or signs;

(2) When any vehicle obstructs or interferes with the free flow of traffic, street maintenance, or access of emergency vehicles or equipment;

(3) When any item, article, object or vehicle which causes or tends to obstruct the free movement of pedestrians or other traffic upon a sidewalk; or

(4) When a motor vehicle is determined to be abandoned as that term is defined in section 16-699.

(b) Nothing in this section shall prohibit the towing of a vehicle to the an impound lot pursuant to another section of this Code.

(Code 1994, § 11.01.1230; Ord. No. 09, 2011, § 1, 2-15-2011; Ord. No. 12, 2019, exh. E, § 11.01.1230, 3-19-2019)

~~Sec. 16-392. Repealed.~~

~~Repealed by Ord. No. 12,2019, 3-19-2019.~~

~~(Code 1994, § 11.01.1240; Ord. No. 09, 2011, § 1, 2-15-2011)~~

Secs. 16-492--16-429. Reserved.

~~PART~~ ARTICLE XIII. ALCOHOL AND DRUG OFFENSES

Sec. 16-430. Open alcohol beverage container; motor vehicle; prohibited.

(a) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcohol beverage means a beverage as defined in CFR title 23, as amended from time to time;

Motor vehicle means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways but does not include a vehicle operated exclusively on a rail or rails.

Open alcohol beverage container means a bottle, can or other receptacle that contains any amount of alcohol beverage:

(1) That is open or has a broken seal; or

(2) The contents of which are partially removed.

Passenger area means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his seating position, including, but not limited to, the glove compartment.

(b) (1) Except as otherwise permitted in subsection (b)(2) of this section, a person, while in the passenger area of a motor vehicle that is on a public highway of the state or the right-of-way of a public highway of the state, may not knowingly:

a. Drink an alcohol beverage; or

b. Have in his possession an open alcohol beverage container.

(2) The provisions of this subsection (b) shall not apply to:

a. Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained or used primarily for the transportation of persons for compensation;

b. The possession by a passenger, other than the driver or a front seat passenger, of an open alcohol beverage container in the living quarters of a house coach, house trailer, motor home or trailer coach, as defined in C.R.S. title 42, as amended from time to time;

c. The possession of an open alcohol beverage container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or

d. The possession of an open alcohol beverage container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

(Code 1994, § 11.01.1305; Ord. No. 08, 2011, § 1, 2-15-2011)

Secs. 16-431--16-458. Reserved.

~~PART~~ ARTICLE XVI. OTHER OFFENSES

Sec. 16-459. Reckless driving.

A person who drives a motor vehicle, bicycle or low-power scooter within the city in such a manner as to indicate either a wanton or a willful disregard for the safety of persons or property is guilty of reckless driving.

(Code 1994, § 11.01.1401; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-460. Careless driving; penalty.

(a) Any person who drives a motor vehicle, bicycle, electrical assisted bicycle or low-power scooter in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic and use of the streets and highways and all other attendant circumstances is guilty of careless driving.

(b) A person convicted of careless driving of a bicycle, electrical assisted bicycle or low-power scooter shall

not be subject to the provisions of state statute regarding suspension of driver's licenses.

(Code 1994, § 11.01.1402; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-461. Following fire apparatus prohibited.

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(Code 1994, § 11.01.1403; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-462. Crossing fire hose.

No vehicle shall be driven over any unprotected hose of a fire department used at any fire, alarm of fire or practice runs or laid down on any street, private driveway or highway without the consent of the fire department official in command.

(Code 1994, § 11.01.1404; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-463. Riding in trailers.

No person shall occupy a trailer while it is being moved upon a public highway.

(Code 1994, § 11.01.1405; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-464. Foreign matter on highway prohibited.

(a) (1) No person shall throw or deposit upon or along any highway any glass bottle, glass, stones, nails, tacks, wire, cans, container of human waste or other substance likely to injure any person, animal or vehicle upon or along such highway.

(2) No person shall throw, drop or otherwise expel a lighted cigarette, cigar, match or other burning material from a motor vehicle upon any highway.

(b) Any person who drops, or permits to be dropped or thrown, upon any highway or structure any destructive or injurious material or lighted or burning substance shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

(d) No person shall excavate a ditch or other aqueduct, or construct any flume or pipeline or any steam, electric or other railway, or construct any approach to a public highway without written consent of the authority responsible for the maintenance of that highway.

(e) As used in this section:

(1) The term "container" includes, but is not limited to, a bottle, a can, a box or a diaper.

(2) The term "human waste" means urine, feces or fluids produced by or coming from the body of a human.

(Code 1994, § 11.01.1406; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-465. Spilling loads on highways prohibited.

(a) No vehicle shall be driven or moved on any highway unless such vehicle is constructed or loaded or the load thereof securely covered to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom; except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) (1) A vehicle shall not be driven or moved on a highway if the vehicle is transporting trash or recyclables unless at least one of the following conditions is met:

a. The load is covered by a tarp or other cover in a manner that prevents the load from blowing, dropping, shifting, leaking or otherwise escaping from the vehicle;

b. The vehicle utilizes other technology that prevents the load from blowing, dropping, shifting,

leaking or otherwise escaping from the vehicle;

c. The load is required to be secured under and complies with 49 CFR, as amended from time to time; or

d. The vehicle is loaded in such a manner or the load itself has physical characteristics such that the contents will not escape from the vehicle. Such a load may include, but is not limited to, heavy scrap metal or hydraulically compressed scrap recyclables.

(2) Subsection (b)(1) of this section shall not apply to a motor vehicle in the process of collecting trash or recyclables within a one-mile radius of the motor vehicle's last collection point.

(c) (1) No vehicle shall be driven or moved on any highway for a distance of more than two miles if the vehicle is transporting aggregate material with a diameter of one inch or less unless:

a. The load is covered by a tarp or other cover in a manner that prevents the aggregate material from blowing, dropping, shifting, leaking or otherwise escaping from the vehicle; or

b. The vehicle utilizes other technology that prevents the aggregate material from blowing, dropping, shifting, leaking or otherwise escaping from the vehicle.

(2) Nothing in this subsection (c) shall apply to a vehicle:

a. Operating entirely within a marked construction zone;

b. Involved in maintenance of public roads during snow or ice removal operations; or

c. Involved in emergency operations when requested by a law enforcement agency or an emergency response authority designated in or pursuant to C.R.S. title 29, as amended from time to time.

(d) For the purposes of this section:

(1) The term "aggregate material" means any rock, clay, silt, gravel, limestone, dimension stone, marble and shale; except that the term "aggregate material" does not include hot asphalt, including asphalt patching material, wet concrete or other materials not susceptible to blowing.

(2) The term "recyclables" means material or objects that can be reused, reprocessed, remanufactured, reclaimed or recycled.

(3) The term "trash" means material or objects that have been or are in the process of being discarded or transported.

(Code 1994, § 11.01.1407; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-466. Splash guards; when required.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Splash guards means mud flaps, rubber, plastic or fabric aprons, or other devices directly behind the rearmost wheels, designed to minimize the spray of water and other substances to the rear. Splash guards must, at a minimum, be wide enough to cover the full tread of the tire or tires being protected, hang perpendicular from the vehicle not more than ten inches above the surface of the street or highway when the vehicle is empty, and generally maintain their perpendicular relationship under normal driving conditions.

(a) Except as otherwise permitted in this section, no vehicle or motor vehicle shall be driven or moved on any street or highway unless the vehicle or motor vehicle is equipped with splash guards.

(b) This section does not apply to:

(1) Passenger-carrying motor vehicles registered pursuant to C.R.S. title 42, article 3, as amended from time to time;

(2) Trucks and truck tractors registered pursuant to C.R.S. title 42, article 3, as amended from time to time, having an empty weight of 10,000 pounds or less;

(3) Trailers equipped with fenders or utility pole trailers;

(4) Vehicles involved in chip and seal or paving operations or road-widening equipment;

(5) Truck tractors or converter dollies when used in combination with other vehicles;

(6) Vehicles drawn by animals; or

(7) Bicycles.

(Code 1994, § 11.01.1407.5; Ord. No. 26, 2003, § 1, 4-1-2003; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 16-467. Operation of motor vehicles on property under control of or owned by parks and recreation districts.

(a) Any metropolitan recreation district, any park and recreation district organized pursuant to C.R.S. title 32, article 1, or any recreation district organized pursuant to the provisions of C.R.S. title 30, article 20, part 7, referred to in this section as a district, shall have the authority to designate areas on property owned or controlled by the district in which the operation of motor vehicles shall be prohibited. Areas in which it shall be prohibited to operate motor vehicles shall be clearly posted by a district.

(b) It is unlawful for any person to operate a motor vehicle in an area owned or under the control of a district if the district has declared the operation of motor vehicles to be prohibited in such area, as provided in subsection (a) of this section.

(Code 1994, § 11.01.1408; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-468. Compulsory insurance; penalty.

(a) No owner of a motor vehicle or low-power scooter required to be registered in the state shall operate the vehicle or permit it to be operated on the public highways of the city when the owner has failed to have a complying policy or certificate of self-insurance in full force and effect as required by the applicable provisions of C.R.S. title 10, as amended from time to time.

(b) No person shall operate a motor vehicle or low-power scooter on the public highways of the city without a complying policy or certificate of self-insurance in full force and effect as required by the applicable provisions of C.R.S. title 10, as amended from time to time.

(c) When an accident occurs, or when requested to do so following any lawful traffic contact or during any traffic investigation by a peace officer, no owner or operator of a motor vehicle or low-power scooter shall fail to present to the requesting officer immediate evidence of a complying policy or certificate of self-insurance in full force and effect.

(d) Any person who violates the provisions of subsection (a), (b) or (c) of this section commits a traffic offense.

(e) Testimony of the failure of any owner or operator of a motor vehicle or low-power scooter to present immediate evidence of a complying policy or certificate of self-insurance in full force and effect as required by the applicable provisions of C.R.S. title 10, as amended from time to time, when requested to do so by a peace officer, shall constitute prima facie evidence, at a trial concerning a violation charged under subsection (a) or (b) of this section, that such owner or operator of a motor vehicle violated subsection (a) or (b) of this section.

(f) No person charged with violating subsection (a), (b) or (c) of this section shall be convicted if he produces in court a bona fide complying policy or certificate of self-insurance which was in full force and effect, as required by the applicable provisions of C.R.S. title 10, as amended from time to time, at the time of the alleged violation.

(g) (1) Any person who violates the provisions of subsections (a), (b) or (c) of this section shall be punished by a minimum mandatory fine of not less than $500.00. The court may suspend up to one-half of the fine upon a showing that appropriate insurance has been obtained. Nothing in this subsection shall be construed to prevent the court from imposing a fine greater than the minimum mandatory fine.

(2) Upon a second or subsequent conviction under this within a period of five years following a prior conviction under this section, in addition to any imprisonment imposed, the defendant shall be punished by a minimum mandatory fine of not less than $1,000.00, and the court shall not suspend such fine. The court may suspend up to one-half of the fine upon showing that appropriate insurance as required has

been obtained.

(Code 1994, § 11.01.1409; Ord. No. 80, 1997, §§ 1, 2, 12-16-1997; Ord. No. 75, 2004, §§ 1, 2, 12-21-2004; Ord. No. 35, 2010, § 2, 11-2-2010; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-469. Radar jamming devices prohibited; penalty.

(a) (1) No person shall use, possess or sell a radar jamming device.

(2) No person shall operate a motor vehicle with a radar jamming device in the motor vehicle.

(b) (1) For the purposes of this section, the term "radar jamming device" means any active or passive device, instrument, mechanism or equipment that is designed or intended to interfere with, disrupt or scramble the radar or laser that is used by law enforcement agencies and peace officers to measure the speed of motor vehicles. The term "radar jamming device" includes, but is not limited to, devices commonly referred to as jammers or scramblers.

(1) For the purposes of this section, the term "radar jamming device" shall not include equipment that is legal under FCC regulations, such as a citizens' band radio, ham radio or any other similar electronic equipment.

(c) Radar jamming devices are subject to seizure by any peace officer and may be confiscated and destroyed by order of the court in which a violation of this section is charged.

(d) The provisions of subsection (a) of this section shall not apply to peace officers acting in their official capacity.

(Code 1994, § 11.01.1410; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-470. Use of earphones while driving; penalty.

(a) No person shall operate a motor vehicle while wearing earphones.

(b) As used in this section, the term earphones includes any headset, radio, tape player or other similar device which provides the listener with radio programs, music or other recorded information through a device attached to the head and which covers all of or a portion of the ears. The term "earphones" does not include speakers or other listening devices which are built into protective headgear, or mobile phone receivers designed to be used on only one ear.

(c) Any person who violates this section shall be punished by a fine of not less than $25.00 and not more than $100.00.

(Code 1994, § 11.01.1411; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-471. Operation of bicycles and other human-powered vehicles.

(a) Every person riding a bicycle or electrical assisted bicycle shall have all of the rights and duties applicable to the driver of any other vehicle under this Code, except as to special regulations in this Code and except as to those provisions which by their nature can have no application. Said riders shall comply with the rules set forth in this section and section 16-54.

(b) It is the intent of the city council that nothing herein contained shall in any way be construed to modify or increase the duty of the department of transportation or any political subdivision to sign or maintain highways or sidewalks or to affect or increase the liability of the state or any political subdivision under the Colorado Governmental Immunity Act, C.R.S. title 24, article 10, as amended from time to time.

(c) No bicycle or electrical assisted bicycle shall be used to carry more persons at one time than the number for which it is designed or equipped.

(d) No person riding upon any bicycle or electrical assisted bicycle shall attach the same or himself to any motor vehicle upon a roadway.

(e) (1) Any person operating a bicycle or an electrical assisted bicycle upon a roadway at less than the normal speed of traffic shall ride in the right-hand lane, subject to the following conditions:

a. If the right-hand lane then available for traffic is wide enough to be safely shared with overtaking

vehicles, a bicyclist shall ride far enough to the right as judged safe by the bicyclist to facilitate the movement of such overtaking vehicles unless other conditions make it unsafe to do so.

b. A bicyclist may use a lane other than the right-hand lane when:

1. Preparing for a left turn at an intersection or into a private roadway or driveway;

2. Overtaking a slower vehicle; or

3. Taking reasonably necessary precautions to avoid hazards or road conditions.

c. Upon approaching an intersection where right turns are permitted and there is a dedicated right-turn lane, a bicyclist may ride on the left-hand portion of the dedicated right-turn lane even if the bicyclist does not intend to turn right.

(2) A bicyclist shall not be expected or required to:

a. Ride over or through hazards at the edge of a roadway, including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards or narrow lanes; or

b. Ride without a reasonable safety margin on the right-hand side of the roadway.

(3) A person operating a bicycle or an electrical assisted bicycle upon a one-way roadway with two or more marked traffic lanes may ride as near to the left-hand curb or edge of such roadway as judged safe by the bicyclist, subject to the following conditions:

a. If the left-hand lane then available for traffic is wide enough to be safely shared with overtaking vehicles, a bicyclist shall ride far enough to the left as judged safe by the bicyclist to facilitate the movement of such overtaking vehicles unless other conditions make it unsafe to do so.

b. A bicyclist shall not be expected or required to:

1. Ride over or through hazards at the edge of a roadway, including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards or narrow lanes; or

2. Ride without a reasonable safety margin on the left-hand side of the roadway.

(f) (1) Persons riding bicycles or electrical assisted bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(2) Persons riding bicycles or electrical assisted bicycles two abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(g) A person operating a bicycle or electrical assisted bicycle shall keep at least one hand on the handlebars at all times.

(h) (1) A person riding a bicycle or electrical assisted bicycle intending to turn left shall make a left turn in the manner prescribed in subsection (h)(2) of this section.

(2) A person riding a bicycle or electrical assisted bicycle intending to turn left shall approach the turn as closely as practicable to the right-hand curb or edge of the roadway. After proceeding across the intersecting roadway to the far corner of the curb or intersection of the roadway edges, the bicyclist shall stop, as much as practicable, out of the way of traffic. After stopping, the bicyclist shall yield to any traffic proceeding in either direction along the roadway that the bicyclist had been using. After yielding and complying with any official traffic control device or police officer regulating traffic on the highway along which the bicyclist intends to proceed, the bicyclist may proceed in the new direction.

(3) Notwithstanding the provisions of subsections (h)(1) and (2) of this section, the transportation commission and local authorities in their respective jurisdictions may cause official traffic control devices to be placed on roadways and thereby require and direct that a specific course be traveled.

(i) (1) Except as otherwise provided in this subsection (i), every person riding a bicycle or electrical assisted bicycle shall signal the intention to turn or stop in accordance with section 16-292; except that a person

riding a bicycle or electrical assisted bicycle may signal a right turn with the right arm extended horizontally.

(2) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the bicycle or electrical assisted bicycle before turning and shall be given while the bicycle or electrical assisted bicycle is stopped waiting to turn. A signal by hand and arm need not be given continuously if the hand is needed in the control or operation of the bicycle or electrical assisted bicycle.

(j) (1) A person riding a bicycle or electrical assisted bicycle upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian. A person riding a bicycle in a crosswalk shall do so in a manner that is safe for pedestrians.

(2) A person shall not ride a bicycle or electrical assisted bicycle upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk where such use of bicycles or electrical assisted bicycles is prohibited by official traffic control devices or local ordinances. A person riding a bicycle or electrical assisted bicycle shall dismount before entering any crosswalk where required by official traffic control devices or local ordinances.

(3) A person riding or walking a bicycle or electrical assisted bicycle upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances, including, but not limited to, the rights and duties granted and required by section 16-255.

(k) (1) A person may park a bicycle or electrical assisted bicycle on a sidewalk unless prohibited or restricted by an official traffic control device or local ordinance.

(2) A bicycle or electrical assisted bicycle parked on a sidewalk shall not impede the normal and reasonable movement of pedestrian or other traffic.

(3) A bicycle or electrical assisted bicycle may be parked on the road at any angle to the curb or edge of the road at any location where parking is allowed.

(4) A bicycle or electrical assisted bicycle may be parked on the road abreast of another such bicycle or bicycles near the side of the road or any location where parking is allowed in such a manner as does not impede the normal and reasonable movement of traffic.

(5) In all other respects, bicycles or electrical assisted bicycles parked anywhere on a highway shall conform to the provisions of article 12 of this chapter regulating the parking of vehicles.

(l) (1) Any person who violates any provision of this section commits a violation of this Code.

(2) Any person riding a bicycle or electrical assisted bicycle who violates any provision of this Code other than this section which is applicable to such a vehicle and for which a penalty is specified shall be subject to the same specified penalty as any other vehicle.

(m) Except as authorized by section 16-13, the rider of an electrical assisted bicycle shall not use the electrical motor on a bike or pedestrian path.

(Code 1994, § 11.01.1412; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-472. Eluding or attempting to elude a police officer.

Any operator of a motor vehicle who the officer has reasonable grounds to believe has violated a state law or municipal ordinance, who has received a visual or audible signal such as a red light or a siren from a police officer driving a marked vehicle showing the same to be an official police, sheriff or state patrol car directing the operator to bring the operator's vehicle to a stop, and who willfully increases his speed or extinguishes his lights in an attempt to elude such police officer, or willfully attempts in any other manner to elude the police officer, or does elude such police officer, commits a traffic offense.

(Code 1994, § 11.01.1413; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-473. Moving construction related equipment.

Pursuant to C.R.S. § 42-4-202(4), as amended from time to time, each exempt vehicle, motor vehicle, trailer or item of mobile machinery, or self-propelled construction equipment, or similar implement of equipment, used in any type of construction business may be moved on the roads, streets and highways during daylight hours and at such time as vision is not less than 500 feet. No cargo or supplies shall be hauled upon such exempt item except cargo and supplies used in normal operation of any such item.

(Code 1994, § 11.01.1414; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-474. Permits for parades or processions.

Except as hereinafter provided in section 16-475 and except for the armed forces of the United States and those of the state, the police and firefighters of the city and the police of the state, no person or persons shall conduct or participate in a parade or procession which occupies or marches along any street in the city, without having first applied to and received from the chief of police a permit therefor. The chief of police shall not deny such a permit except when necessary to ensure the free flow of traffic, the orderly use of the streets and the protection of public order, and before he shall have denied any such permit, he shall have first considered alternative means, if any, of achieving these objectives.

(Code 1994, § 11.01.1415; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-475. Funeral processions.

(a) A funeral procession shall be identified by displaying outside of each vehicle therein a pennant or other identifying insignia or by keeping the headlights burning on each participating vehicle, from the church, funeral parlor, mortuary, private residence or other location of service to the place of interment.

(b) No permit is required for any funeral procession to occupy or proceed along the streets of the city.

(c) Each driver in the funeral procession shall drive as near to the right-hand-side of the roadway as practicable and shall follow the vehicle ahead as closely as is safe and practicable.

(d) If an intersection is controlled by a stop or yield sign, the lead vehicle in the procession shall come to a stop or yield the right-of-way as may be required and shall proceed only when safe. After the lead vehicle has lawfully entered the intersection the procession may, in its entirety, proceed through the intersection.

(e) Whenever an intersection is controlled by a traffic control signal, the funeral procession shall yield the right-of-way as may be necessary to conflicting traffic before entering the intersection against the red signal. After the procession has lawfully so entered the intersection, the procession may, in its entirety, proceed through the intersection.

(f) Authorized service vehicles, licensed by the state or by the city, or an authorized emergency vehicle, may escort funeral processions.

(g) Funeral processions which are escorted by such authorized vehicles may proceed regardless of the official traffic control devices and shall have the right-of-way over other vehicles. This provision shall not apply at intersections where traffic and movement of such processions is controlled by a police officer.

(h) No driver of a vehicle shall drive between vehicles comprising a funeral procession while said vehicles are in motion and while said vehicles are conspicuously designated as required by this chapter.

(i) Nothing herein contained shall relieve any escort or driver of any vehicle with a funeral procession from the duty to proceed with due regard for the safety of all persons nor shall any of the provisions hereof protect any such escort or any such driver from the consequences of a careless or reckless disregard for the safety of others.

(j) Processions in all such instances shall yield the right-of-way to other authorized emergency vehicles which are operating in an emergency configuration.

(Code 1994, § 11.01.1416; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-476. Misuse of a wireless telephone.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to

them in this subsection, except where the context clearly indicates a different meaning:

Emergency means a situation in which a person:

(1) Has reason to fear for such person's life or safety, or believes that a criminal act may be perpetrated against such person or another person requiring the use of a wireless telephone while the car is moving; or

(2) Reports a fire, a traffic accident in which one or more injuries are apparent, a serious road hazard, a medical or hazardous materials emergency or a person who is driving in a reckless, careless or otherwise unsafe manner.

Operating a motor vehicle means driving a motor vehicle on a public highway, but the term "operating a motor vehicle" shall not mean maintaining the instrument of control while the motor vehicle is at rest in a shoulder lane or lawfully parked.

Use means talking on or listening to a wireless telephone or engaging the wireless telephone for text messaging or other similar forms of manual data entry or transmission.

Wireless telephone means a telephone that operates without a physical, wireline connection to the provider's equipment. The term "wireless telephone" includes, without limitation, cellular and mobile telephones.

(b) No person under 18 years of age shall use a wireless telephone while operating a motor vehicle.

(c) No person 18 years of age or older shall use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission while operating a motor vehicle.

(d) Subsection (b) or (c) of this section shall not apply to a person who is using the wireless telephone:

(1) To contact a public safety entity; or

(2) During an emergency.

(e) (1) A person who operates a motor vehicle in violation of subsection (b) or (c) of this section commits a traffic infraction pursuant to section 1-229(e).

(1) A second or subsequent violation of subsection (b) or (c) of this section shall be considered a traffic offense pursuant to section 1-229(d).

(f) (1) An operator of a motor vehicle shall not be cited for a violation of subsection (b) of this section unless the operator was under 18 years of age and a law enforcement officer saw the operator use a wireless telephone.

(1) An operator of a motor vehicle shall not be cited for a violation of subsection (c) of this section unless the operator was 18 years of age or older and a law enforcement officer saw the operator use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission.

(g) The provisions of this section shall not be construed to authorize the seizure and forfeiture of a wireless telephone, unless otherwise provided by law.

(h) This section does not restrict operation of an amateur radio station by a person who holds a valid amateur radio operator license issued by the Federal Communications Commission.

(Code 1994, § 11.01.1420; Ord. No. 10, 2016, § 1(exh. A), 4-19-2016)

Sec. 16-477. Inattentive driving.

(a) No person shall operate a motor vehicle in an inattentive manner without exercising reasonable and prudent control over the operation of such vehicle.

(b) A violation of this section is a traffic infraction and shall be punishable under chapter 9 of title 1 of this Code.

(Code 1994, § 11.01.1421; Ord. No. 9, 2016, § 2(exh. A), 4-19-2016)

Secs. 16-478--16-507. Reserved.

~~PART~~ ARTICLE XV. MOTORCYCLES

Sec. 16-508. Traffic laws apply to persons operating motorcycles; special permits.

(a) Every person operating a motorcycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter and except as to those provisions of this chapter which by their nature can have no application.

(b) For the purposes of a prearranged organized special event and upon a showing that safety will be reasonably maintained, the department of transportation may grant a special permit exempting the operation of a motorcycle from any requirement of this article XV of this chapter.

(Code 1994, § 11.01.1501; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-509. Riding on motorcycles.

(a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent seat if designed for two persons or upon another seat firmly attached to the motorcycle at the rear or side of the operator.

(b) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on either side of the motorcycle.

(c) No person shall operate a motorcycle while carrying packages, bundles or other articles which prevent the person from keeping both hands on the handlebars.

(d) No operator shall carry any person nor shall any person ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

(e) (1) A person shall not operate or ride as a passenger on a motorcycle or low-power scooter on a roadway unless:

a. Each person under 18 years of age is wearing a protective helmet of a type and design manufactured for use by operators of motorcycles;

b. The protective helmet conforms to the design and specifications set forth in subsection (2) of this subsection (e); and

c. The protective helmet is secured properly on the person's head with a chin strap while the motorcycle is in motion.

(2) A protective helmet required to be worn by this subsection (e) shall:

a. Be designed to reduce injuries to the user resulting from head impacts and to protect the user by remaining on the user's head, deflecting blows, resisting penetration and spreading the force of impact;

b. Consist of lining, padding and chin strap; and

c. Meet or exceed the standards established in the United States department of transportation Federal Motor Vehicle Safety Standard contained in Title 49, C.F.R., as amended from time to time for motorcycle helmets.

(Code 1994, § 11.01.1502; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 08, 2011, § 1, 2-15-2011)

Sec. 16-510. Operating motorcycles on roadways laned for traffic.

(a) All motorcycles are entitled to full use of a traffic lane, and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a traffic lane. This subsection (a) shall not apply to motorcycles operated two abreast in a single lane.

(b) The operator of a motorcycle shall not overtake or pass in the same lane occupied by the vehicle being

overtaken.

(c) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(d) Motorcycles shall not be operated more than two abreast in a single lane.

(e) Subsections (b) and (c) of this section shall not apply to police officers in the performance of their official duties.

(Code 1994, § 11.01.1503; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-511. Clinging to other vehicles.

No person riding upon a motorcycle shall attach himself or the motorcycle to any other vehicle on a roadway.

(Code 1994, § 11.01.1504; Ord. No. 80, 1997, § 2, 12-16-1997)

Secs. 16-512--16-530. Reserved.

~~PART~~ ARTICLE XVI. ACCIDENTS AND ACCIDENT REPORTS

Sec. 16-531. When driver unable to give notice or make written report.

(a) Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in C.R.S. titles 11 and 42, as amended from time to time, and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give or cause to be given the notice not given by the driver.

(b) Whenever the driver of a vehicle is physically incapable of making a written report of an accident as required in C.R.S. title 42, as amended from time to time, and such driver is not the owner of the vehicle involved, then the owner shall within ten days after such accident make such report not made by the driver.

(Code 1994, § 11.01.1607; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 07, 2011, § 1, 2-1-2011; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-532. Accident report forms.

Every required accident report shall be made on a form approved by the department of revenue, where such form is available.

(Code 1994, § 11.01.1608; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-533. Investigation of traffic accidents.

It shall be the duty of the police department to investigate traffic accidents occurring within the city either by investigation at the time of or at the scene of the accident or thereafter by interviewing participants or witnesses, to issue summonses and penalty assessment notices for traffic violations in connection with traffic accidents, and to assist in the prosecution of those persons charged with violations of law or ordinance causing or contributing to accidents.

(Code 1994, § 11.01.1609; Ord. No. 80, 1997, § 2, 12-16-1997)

Secs. 16-534--16-559. Reserved.

~~PART~~ ARTICLE XVII. PENALTIES, PROCEDURE AND ADMINISTRATION

Sec. 16-560. Traffic offenses classified; schedule of fines.

(a) It is a traffic offense for any person to violate any provision of this chapter.

(b) Pursuant to C.M.C.R. 210(b)(4), the court may by order, which may from time to time be amended, supplemented or repealed, designate the traffic offenses, the penalties for which may be paid at the office of the court clerk or violations bureau.

(c) The court in addition to any other notice, by published order to be prominently posted in a place where fines are to be paid, shall specify by suitable schedules the amount of fines to be imposed for violations, designating

each violation specifically in the schedules. Such fines will be within the limits set by ordinance.

(d) The penalties and surcharges imposed for speeding violations under section 16-561 are doubled if a speeding violation occurs within a maintenance, repair or construction zone that is designated by the department of public works pursuant to the requirements of section 16-198.

(e) Any person convicted of violating section 16-161 and section 16-162 shall be fined whether the defendant acknowledges the defendant's guilt pursuant to the procedure set forth in section 16-566 is found guilty by a court of competent jurisdiction. Any violation of section 16-161 or section 16-162 is a traffic infraction and shall be punishable under chapter 9 of title 1 of this Code, except shall be punished by a fine of not more than $1,000.00.

(f) Fines and costs shall be paid to, receipted by and accounted for by the violations clerk or court clerk.

(Code 1994, § 11.01.1701; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 27, 2003, § 1, 4-1-2003; Ord. No. 09, 2011, § 1, 2-15-2011)

Sec. 16-561. Violation; penalties.

The following penalties set forth in full apply to this chapter and the city traffic code adopted in this chapter:

(1) It is unlawful for any person to violate any of the provisions stated or adopted in this chapter.

(2) Every person convicted of a violation of any provision stated or adopted in this chapter shall be punished as provided in chapter 9 of title 1 of this Code. Unless otherwise defined in this chapter, punishment by imprisonment or a fine in excess of $500.00 for violations of traffic regulations under this traffic code is prohibited with the following exceptions:

Chapter Violation/Penalty Exceptions

Section 16-351	Speeding of 40 miles or more over the speed limit
Section 16-355	Speed contests, speed exhibitions—aiding and facilitating—immobilization of motor vehicle—definitions
Section 16-459	Reckless driving
Section 16-460	Careless driving
Section 16-468	No insurance
Section 16-472	Eluding or attempting to elude a police officer
Section 16-639	Fail to stop for school bus

(Code 1994, § 11.01.1702; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 28, 2003, § 1, 4-1-2003; Ord. No. 08, 2011, § 1, 2-15-2011; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-562. Parties to a crime.

Every person who commits, conspires to commit or aids or abets in the commission of any act declared in this chapter to be a traffic offense, whether individually or in connection with one or more other persons or as principal, agent or accessory, is guilty of such offense or liable for such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this chapter is likewise guilty of such offense or liable for such offense.

(Code 1994, § 11.01.1703; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-563. Offenses by persons controlling vehicles.

It is unlawful for the owner or any other person employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law or this chapter.

(Code 1994, § 11.01.1704; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-564. Summons and complaint or penalty assessment for traffic violations; release; registration.

(a) Whenever a person commits a violation of this chapter other than a violation for which a penalty assessment notice may be issued in accordance with the provisions of section 16-560 and C.M.C.R., and such person is not required to be arrested and taken without unnecessary delay before a municipal judge, the peace officer may issue and serve upon the defendant a summons and complaint which shall comply with the C.M.C.R.

(b) If a peace officer issues and serves a summons and complaint to appear in municipal court upon the defendant as described in subsection (a) of this section, any defect in form in such summons and complaint regarding the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, the date and approximate location thereof, and the date the summons and complaint is served on the defendant may be cured by amendment at any time prior to trial or any time before verdict or findings upon an oral motion by the prosecuting attorney after notice to the defendant and an opportunity for a hearing. No such amendment shall be permitted if substantial rights of the defendant are prejudiced. No summons and complaint shall be considered defective so as to be cause for dismissal solely because of a defect in form in such summons and complaint as described in this subsection (b) of this section.

(c) (1) Whenever a penalty assessment notice for a traffic offense is issued pursuant to section 16-560, the penalty assessment notice which shall be served upon the defendant by the peace officer shall contain the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, a citation of this Code alleged to have been violated, a brief description of the offense, the date and approximate location thereof, the amount of the penalty prescribed for such offense, the amount of any fees and surcharges thereon pursuant to the number of points, if any, prescribed for such offense pursuant to C.R.S. title 42, as amended from time to time, and the date the penalty assessment notice is served on the defendant; shall direct the defendant to appear in a specified municipal court at a specified time and place in the event such penalty thereon are not paid; shall be signed by the peace officer; and shall contain a place for such defendant to elect to execute a signed acknowledgment of guilt and an agreement to pay the penalty and any fees or surcharges prescribed thereon within 30 days, as well as such other information as may be required by ordinance and C.M.C.R. to constitute such penalty assessment notice to be a summons and complaint, should the prescribed penalty thereon not be paid within the time allowed by ordinance or court order.

(2) One copy of said penalty assessment notice shall be served upon the defendant by the peace officer and one copy sent to the clerk of the municipal court or the city attorney.

(d) (1) The time specified in the summons portion of said summons and complaint must be at least 30 days after the date such summons and complaint is served, unless the defendant shall demand an earlier court appearance date.

(2) The time specified in the summons portion of said penalty assessment notice shall be at least 30 days but not more than 90 days after the date such penalty assessment notice is served, unless the defendant shall demand an earlier court appearance date.

(e) If the defendant is otherwise eligible to be issued a summons and complaint or a penalty assessment notice for a violation of this chapter punishable as a traffic offense and if the defendant does not possess a valid state driver's license, the defendant, in order to secure release, as provided in this section, must either consent to be taken by the officer to the nearest mailbox and to mail the amount of the penalty thereon to the clerk of the court or must execute a promise to appear in court on the penalty assessment notice or on the summons and complaint. If the defendant does possess a valid state driver's license, the defendant shall not be required to execute a promise to appear on the penalty assessment notice or on the summons and complaint.

(Code 1994, § 11.01.1707; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-565. Burden of proof; appeals.

(a) The burden of proof shall be upon the people, and the court shall enter judgment in favor of the defendant unless the people prove the liability of the defendant beyond a reasonable doubt.

(b) Appeals from courts of record shall be in accordance with Rule 37 of the Colorado Rules of Criminal

Procedure.

(Code 1994, § 11.01.1708; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-566. Penalty assessment notice for traffic infractions; violations of provisions by officer; driver's license.

(a) Whenever a penalty assessment notice for a traffic offense is issued pursuant to section 16-560, the penalty assessment notice which shall be served upon the defendant by the peace officer shall contain the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, a citation of the code section alleged to have been violated, a brief description of the traffic offense, the date and approximate location thereof, the amount of the penalty prescribed for such traffic infraction, any fees or surcharges prescribed for such traffic infraction, the number of points, if any, prescribed for such traffic infraction pursuant to C.R.S. title 42, as amended from time to time, and the date the penalty assessment notice is served on the defendant; shall direct the defendant to appear in a specified county court at a specified time and place in the event such penalty and surcharge thereon is not paid; shall be signed by the peace officer; and shall contain a place for the defendant to elect to execute a signed acknowledgment of liability and an agreement to pay the penalty prescribed and any surcharge thereon within 30 days, as well as such other information as may be required by law to constitute such penalty assessment notice to be a summons and complaint, should the prescribed penalty and surcharge thereon not be paid within the time allowed set by ordinance or court order.

(b) One copy of said penalty assessment notice shall be served upon the defendant by the peace officer and one copy sent to the supervisor of the motor vehicle division and such other copies sent as may be required by rule or regulation of the motor vehicle division to govern the internal administration of this article between the motor vehicle division and the state patrol.

(c) The time specified in the summons portion of said penalty assessment notice must be at least 30 days but not more than 90 days after the date such penalty assessment notice is served, unless the defendant shall demand an earlier hearing.

(d) The place specified in the summons portion of said penalty assessment notice must be a municipal court within the municipality in which the traffic infraction is alleged to have been committed.

(e) Whenever the defendant refuses to accept service of the penalty assessment notice, tender of such notice by the peace officer to the defendant shall constitute service thereof upon the defendant.

(Code 1994, § 11.01.1709; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-567. Failure to pay penalty for traffic infractions; procedures.

(a) Unless a person who has been cited for a traffic infraction pays the penalty assessment and any applicable fees and surcharges, such person shall appear at a hearing on the date and time specified in the citation and answer the complaint against such person.

(b) If the violator answers that he is guilty or if the violator fails to appear for the hearing, judgment shall be entered against the violator.

(c) If the violator denies the allegations in the complaint, a final hearing on the complaint shall be held subject to the applicable rules of procedure. If the violator is found guilty or liable at such final hearing or if the violator fails to appear for a final hearing, judgment shall be entered against the violator.

(d) If judgment is entered against a violator, the violator shall be assessed an appropriate penalty, fees and surcharge thereon.

(Code 1994, § 11.01.1710; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-568. Compliance with promise to appear.

A written promise to appear in court may be complied with by an appearance by counsel.

(Code 1994, § 11.01.1711; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-569. Procedures prescribed not exclusive.

The foregoing provisions of this chapter shall govern all police officers in making arrests without a warrant or issuing citations for violations of this chapter, for offenses or infractions committed in their presence, but the procedure prescribed in this chapter shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense or infraction of like grade.

(Code 1994, § 11.01.1712; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-570. Conviction record inadmissible in civil action.

Except as provided in C.R.S. §§ 42-2-201 to 42-2-208, no record of the conviction of any person for any violation of this chapter shall be admissible as evidence in any court in any civil action.

(Code 1994, § 11.01.1713; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-571. Traffic violation not to affect credibility of witness.

The conviction of a person upon a charge of violating any provision of this chapter or other traffic regulation less than a felony shall not affect or impair the credibility of such person as a witness in any civil or criminal proceeding.

(Code 1994, § 11.01.1714; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-572. Convictions, judgments and charges recorded; public inspection.

(a) Every judge of a court not of record and every clerk of a court of record shall keep a full record of every case in which a person is charged with any violation of this chapter or any other law regulating the operation of vehicles on highways.

(b) Within ten days after the entry of a judgment, conviction or forfeiture of bail of a person upon a charge of violating any provision of this chapter or other law regulating the operation of vehicles on highways, the judge or clerk of the court in which the entry of a judgment was made or the conviction was had or bail was forfeited shall prepare and immediately forward to the motor vehicle division of the department of revenue an abstract of the record of said court covering every case in which said person had a judgment entered against him, was so convicted, or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct.

(c) Said abstract must be made upon a form furnished by the department of revenue and shall include the name, address and driver's license number of the party charged, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment or whether bail forfeited and the amount of the fine or forfeiture as the case may be.

(Code 1994, § 11.01.1715; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-573. Notice to appear or pay fine; failure to appear; penalty.

(a) For the purposes of this article, tender by an arresting officer of the summons or penalty assessment notice shall constitute notice to the violator to appear in court at the time specified on such summons or to pay the required fine and surcharge thereon.

(b) Any person who violates any provision of this section commits a traffic offense.

(Code 1994, § 11.01.1716; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-574. Conviction; attendance at driver improvement school.

Whenever a person has been convicted of violating any provision of this chapter or other law regulating the operation of vehicles on highways, the court, in addition to the penalty provided for the violation or as a condition of either the probation or the suspension of all or any portion of any fine or sentence of imprisonment for a violation other than a traffic infraction, may require the defendant, at his own expense, if any, to attend and satisfactorily complete a course of instruction at any designated driver improvement school located and operating in the county of the defendant's residence and providing instruction in the traffic laws of the state, instruction in recognition of hazardous traffic situations and instruction in traffic accident prevention. Unless otherwise provided by law, such

school shall be approved by the court.

(Code 1994, § 11.01.1717; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-575. Certification.

The city clerk shall certify to the passage of the ordinance codified in this chapter and make not less than three copies of the adopted code available for inspection by the public during regular business hours.

(Code 1994, § 11.01.1719; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-576. Authority of city manager.

(a) The city manager is authorized to waive the requirements of ~~sections 11.01.1204 excepting 11.01.1204(g) and (h), and 11.01.1215 of~~ this traffic code requiring parking permits in certain areas and limiting parking time in certain areas during events such as parades, concerts, races, rodeos and other celebrations.

(b) The city manager shall inform the chief of police in writing of the code sections waived, the time period of the waiver and the area in which code sections are waived prior to the beginning of the waiver.

(Code 1994, § 11.01.1720; Ord. No. 80, 1997, § 2, 12-16-1997)

Secs. 16-577--16-600. Reserved.

~~PART~~ ARTICLE XVIII. TOWING AND STORAGE

Sec. 16-601. Implied grant of authority; authority to store vehicles.

(a) In the circumstances specified in this section, owners and drivers of motor vehicles in the city will be deemed to have authorized the police department and all members thereof, to arrange for the removal, towing and storage of motor vehicles of the drivers and owners. This implied grant of authority shall exist:

(1) If the traffic code provides for removal, towing or impounding of motor vehicles which are illegally parked or abandoned.

(2) If the driver of the motor vehicle has been or is about to be taken into custody of a law enforcement agency or if the driver, in the judgment of the police officer, is unable to drive safely because of being under the influence of alcohol or other drugs.

(3) If the motor vehicle is physically disabled and the driver or owner is unable or unwilling for any reason to arrange for removal, towing and storage of the vehicle.

(4) If the motor vehicle has been or is about to be seized by the police department or by any law enforcement agency to be held as evidence in a criminal proceeding.

(b) Whenever any police officer finds a vehicle, attended or unattended, standing upon any portion of a street or highway right-of-way within the city in such a manner as to constitute a violation ~~of section 11.01.1204~~ of this chapter, or left unattended upon any portion of a street or highway right-of-way within the city for a period of 24 hours or more and presumed to be abandoned under the conditions prescribed by section 14-283, such officer shall require such vehicle to be removed or cause the same to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by the city.

(c) In the event of abandonment of a vehicle on property within the city other than public rights-of-way, the owner of such property may, after a period of 24 hours following the property owner's or agent's placement of notice of removal on the vehicle, cause the abandoned vehicle to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by the city.

(d) If any vehicle is left on private property with the prior consent of the owner of the private property or other person in possession thereof, and following the property owner's or possessor's or agent's compliance with the notice requirements ~~of section 11.01.1219~~ of this chapter, and if the vehicle owner fails to remove the vehicle following such notice, the owner or possessor of the private property or owner's or possessor's agent may cause the removal and placement of the vehicle as described in subsection (c) of this section.

(Code 1994, § 11.01.1801; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-602. Selection of towing operators.

If by reason of section 16-601, the police department and its members are impliedly authorized to arrange for the removal, towing and storage of motor vehicles, or if the police department or any of its members is expressly authorized to do so, the arrangements will be carried out as provided in this chapter. Such towing and storage shall be known as city towing and storage. If the removal, towing or storage is required because the motor vehicle is abandoned, and if a towing agreement is in force between the city and another party, then the other party to the agreement shall be designated to perform the removal, towing and storage. In all other cases, the police officer involved shall make the arrangements by directing the police department's dispatcher to select the towing operator next in line on a rotating list. The rotating list shall consist of a list of names of towing operators who have agreed to be bound by the requirements, obligations and conditions set forth in section 16-603. All towing operators who are eligible, as hereinafter provided, to be on the rotating list and who sign an appropriate form agreeing to be so bound, shall be placed on the rotating list. Any towing operator shall be eligible to be on the rotating list if the operator:

(1) Holds a permit issued under C.R.S. title 40, article 13;

(2) Holds all licenses and permits required by the city;

(3) Maintains his principal place of business in the city;

(4) Has available for use business storage facilities in the city which, in the opinion of the chief of police are adequate to safeguard stored vehicles from weather, theft, vandalism and other hazards; and

(5) Is available on a 24-hour basis to provide towing services and to open his place of business so that motor vehicle owners can take custody of their vehicles.

(Code 1994, § 11.01.1802; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-603. Towing operator requirements, obligations and conditions.

Each towing operator on the rotating list shall comply with, be bound by and be subject to the following requirements, obligations and conditions insofar as city towing and storage is concerned:

(1) He shall file with the police department his schedule of charges for towing and storage services.

(2) He shall not make excessive charges for his services, and in no case will his charges exceed those set forth in his schedule of charges filed with the police department.

(3) In no case will he be entitled to seek payment of his charges from the city, unless the city manager has agreed in writing prior to the rendition of towing and storage services that the city would pay those charges, or unless the vehicle towed is owned by the city.

(4) He shall comply with the reasonable instructions of police officers at accident scenes regarding the details of removing motor vehicles and cleaning up debris.

(5) He shall not attempt collection of disputed charges without first submitting the dispute to advisory arbitration by an advisory arbitration board consisting of a towing operator on the rotating list other than the towing operator whose charges are disputed, the police chief, and the city manager or his appointee; the towing operator who is to serve on the advisory board shall be selected by the city at random. If the towing operator whose charges are disputed declines the recommendation of the advisory arbitration board, and if a majority of that board is of the opinion that the charges are excessive, then the city manager shall eliminate the name of the involved towing operator from the rotating list. In determining whether, in its judgment, towing charges are excessive, the advisory board shall consider charges made by other towing operators for similar services and shall consider charges made by the towing operator in question for similar services rendered to the public when city towing and storage is not involved.

(6) It is understood that the towing operators, by providing services pursuant to this chapter, shall be deemed independent contractors solely responsible for their negligent acts.

(Code 1994, § 11.01.1803; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-604. Loss of towing privileges.

A towing operator shall be dropped from the rotating list if:

(1) The chief of police determines that any of the five eligibility requirements set forth in section 16-602 is no longer being met by the operator;

(2) The chief of police determines that the towing operator has failed to take any action required by section 16-605 or has done any act forbidden by said section or has attempted to do so;

(3) The foregoing grounds for termination of the privileges of a towing operator are in addition to the grounds set forth in section 16-605.

A towing operator who has been dropped from the rotating list under subsection (1) of this section shall be reinstated on the list when and if he again satisfies the eligibility requirements. Towing operators dropped from the rotating list for any other reason shall not be reinstated for five years unless the advisory arbitration board, provided for by section 16-605, approves an earlier reinstatement for good cause.

(Code 1994, § 11.01.1804; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-605. Liens upon towed motor vehicles.

(a) Whenever an operator recovers, removes or stores a motor vehicle upon instructions from the owner or lessee of real property upon which a motor vehicle is illegally parked, or his authorized agent, or from any duly authorized law enforcement agency or peace officer who has determined that such motor vehicle is an abandoned motor vehicle, such operator shall have a possessory lien upon such motor vehicle and its attached accessories or equipment for all costs of recovery, towing and storage as authorized herein. Such lien shall be a first and prior lien on the motor vehicle, and such lien shall be satisfied before all other charges against such motor vehicle. Nothing herein requires an operator to deliver a towed vehicle to a storage lot other than the operator's own lot. A tow service operator may, in its discretion, remove an abandoned vehicle from its own storage area to a crusher site storage area.

(b) Upon delivery to a storage lot of a vehicle that is apparently abandoned, the storage lot shall immediately reimburse the towing operator for towing charges at an agreed-upon lawful rate, authorized or allowed by P.U.C. and other applicable laws and regulations. In the event the motor vehicle is redeemed, the vehicle's redemption shall require reimbursement to the storage lot for documented tow charges already paid, and daily lot storage costs at the same rate as storage costs imposed by the tow service operator. The storage lot shall have a possessory lien upon the motor vehicle and its attached accessories or equipment for all towing costs paid and storage fees as authorized herein. Such lien shall be a first and prior lien on the motor vehicle and such lien shall be satisfied before all other charges against such motor vehicle.

(Code 1994, § 11.01.1805; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-606. Appraisal of abandoned motor vehicles; sale.

(a) Public tow abandoned motor vehicles or motor vehicles abandoned in a storage lot subsequent to a public tow shall be appraised and sold as provided by C.R.S. title 42, article 4, as amended from time to time.

(b) Private tow abandoned motor vehicles or motor vehicles abandoned in a storage lot subsequent to a private tow shall be appraised and sold as provided in C.R.S. title 42, article 4, as amended from time to time.

(Code 1994, § 11.01.1806; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 16-607. Perfection and foreclosure of lien; proceeds of sale.

(a) The lien provided for in section 16-605 shall be perfected as provided by C.R.S. title 42, article 4, as amended from time to time.

(b) Any motor vehicle and its attached accessories and equipment, subject to the possessory lien provided for herein and not redeemed by the last-known owner of record or lienholder after such owner or lienholder has been sent notice of such lien by the operator or storage lot, shall be sold in accordance with the provisions of C.R.S. title 42, article 4, as amended from time to time.

(c) The proceeds of sale of an abandoned motor vehicle shall be disbursed and distributed as provided in

C.R.S. title 42, article 4, as amended from time to time. For the purposes of that disbursement and distribution, operator shall be deemed to include a private storage lot, where such storage lot has taken possession of a motor vehicle and perfected a lien, as provided herein.

(Code 1994, § 11.01.1807; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 07, 2011, § 1, 2-1-2011)

Sec. 16-608. Abandonment of motor vehicles; public tow.

(a) Upon having an abandoned vehicle towed, the police department shall ascertain, if possible, whether or not the motor vehicle has been reported stolen and, if so reported, the police department shall recover and secure the motor vehicle and notify its rightful owner and terminate any abandonment proceedings. The police department shall have the right to recover from the owner its reasonable costs to recover and secure the motor vehicle.

(b) As soon as possible, but in no event later than three working days after having an abandoned motor vehicle towed, the police department shall report the same to the state department of revenue (department) as provided by C.R.S. § 42-4-1804, as amended from time to time.

(c) The term "public tow" means any tow of an abandoned motor vehicle requested by a law enforcement agency. The term "private tow" means any tow of an abandoned motor vehicle not requested by a law enforcement agency. Private tow includes a tow request conveyed to a towing operator by a law enforcement agency in response to a vehicle owner's request for a specific towing service or rotation tow.

(d) Nothing in this section is intended to disallow towing of vehicles as otherwise provided in this section and chapter from a location on city property or municipally owned or controlled property.

(Code 1994, § 11.01.1808; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-609. Retrieval of impounded vehicles and trailers after public tow.

(a) For purposes of this section, the terms "motor vehicle" and "vehicle" shall include trailers.

(b) Upon presenting appropriate proof of identification and ownership of a vehicle which has been impounded by the city under the provisions of this Code in an impoundment lot, and upon payment of the appropriate towing, storage and impoundment fees, parking assessments and delinquent parking assessments, the registered owner of an impounded vehicle may retrieve his vehicle.

(c) The city shall designate hours when payment of towing, storage and impoundment fees may be accepted and vehicles may be retrieved from impoundment lots.

(d) Payment of towing, impoundment, storage fees and other related fees shall not relieve the owner of the impounded vehicle from any responsibility or liability to comply with the terms of any notice or citation issued for violation of this Code.

(Ord. No. 12, 2019, exh. F, § 11.01.1809, 3-19-2019)

Sec. 16-610. Abandonment of motor vehicles; private tow.

(a) For purposes of this section, the terms "motor vehicle" and "vehicle" shall include trailers.

(b) No person shall abandon any motor vehicle upon private property in violation of section 14-283. Any owner or lessee of such private property, or his authorized agent, may have an abandoned motor vehicle removed from his property by having it towed and stored by a towing operator, subject to compliance with the terms of this article.

(c) Any towing operator having in his possession any abandoned motor vehicle from a private tow shall immediately notify the police department as to the name of the operator and the location of the storage lot where the vehicle is located and a description of the abandoned motor vehicle, including the make, model, color and year, the number, issuing state and expiration date of the license plate and the vehicle identification number. Upon such notification the police department shall ascertain, if possible, whether or not the vehicle has been reported stolen and, if so reported, the police department shall ascertain and notify its rightful owner and cause termination of any abandonment proceedings. The police department shall have the right to recover from the owner its reasonable costs therefor.

(d) Any towing operator shall, as soon as possible but in no event later than 72 hours after receipt of determination that such motor vehicle has not been reported stolen, report the same to the department of revenue as required by C.R.S. title 42, art. 4, as amended from time to time. The towing operator shall further comply with all notice requirements of C.R.S. title 42, art. 4, as amended.

(e) The city shall provide notification stickers to private property owners, upon request and free of charge, for placement on apparently abandoned vehicles. The notification stickers shall be similar to those used by the police department for vehicles abandoned on public rights-of-way, notifying a vehicle owner of abandoned status, except that the private property notice shall include an affidavit for signature by the person placing the notice. No vehicle shall be towed from private property unless the notification form has been completed in full by the person placing the notice at least 24 hours prior to removal.

(Code 1994, § 11.01.1809; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 07, 2011, § 1, 2-1-2011; Ord. No. 12, 2019, exh. F, § 11.01.1810, 3-19-2019)

Secs. 16-611--16-636. Reserved.

~~PART~~ ARTICLE XIX. SCHOOL BUSES

Sec. 16-637. School buses; equipped with supplementary brake retarders.

(a) (1) On and after July 1, 1991, except as provided in subsection (b)(1) of this section, passengers of any school bus being used on mountainous terrain by any school district of the state shall not occupy the front row of seats and any seats located next to the emergency doors of such school bus during the period of such use.

(2) For the purposes of this section, the term "mountainous terrain" includes, but shall not be limited to, any road or street which the state department of highways has designated as being located on mountainous terrain.

(b) (1) The provisions of subsection (a)(1) of this section shall not apply to:

a. Passengers of any school bus which is equipped with retarders of appropriate capacity for the purposes of supplementing any service brake systems of such school bus; or

b. Any passenger who is adequately restrained in a fixed position pursuant to federal and state standards.

(2) The general assembly encourages school districts to consider installing only electromagnetic retarders or state-of-the-art retarders for the purposes of supplementing service brake systems of school buses when such retarders are acquired on or after the effective date of the ordinance from which this section is derived. The general assembly also encourages school districts to consider purchasing only those new school buses which are equipped with external public address systems and retarders of appropriate capacity for the purposes of supplementing any service brake systems of such school buses.

(c) For the purposes of this section and section 16-638:

(1) The term "mountainous terrain" means that condition where longitudinal and transverse changes in the elevation of the ground with respect to a road or street are abrupt and where benching and sidehill excavation are frequently required to obtain acceptable horizontal and vertical alignment.

(2) The term "school bus" means any bus used to transport students to and from school or a school-sponsored activity, whether said activity occurs within or without the territorial limits of any district and whether or not occurring during school hours.

(Code 1994, § 11.01.1901; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-638. School bus drivers; special training required.

On and after July 1, 1992, the driver of any school bus, as defined in section 16-637(c)(2), owned or operated by or for any school district in the state shall have successfully completed training, approved by the department of education, concerning driving on mountainous terrain, as defined in section 16-637(c)(1), and driving in adverse weather conditions.

(Code 1994, § 11.01.1902; Ord. No. 80, 1997, § 2, 12-16-1997)

Sec. 16-639. School buses; stops; signs; passing.

(a) (1) The driver of a vehicle upon any highway, road or street, upon meeting or overtaking from either direction any school bus which has stopped, shall stop his vehicle before reaching such school bus if there are in operation on said school bus visual signal lights as specified in subsection (b) of this section, and said driver shall not proceed until the visual signal lights are no longer being actuated; but, in the case of small passenger-type vehicles operated as school buses having a seating capacity of not more than nine, no such visual signal lights need be displayed or actuated.

(2) a. A driver of any school bus who observes a violation of subsection (a)(1) of this section shall notify his school district transportation dispatcher. The school bus driver shall provide the school district transportation dispatcher with the color, basic description and license plate number of the vehicle involved in the violation, information pertaining to the identity of the alleged violator, and the time and the approximate location at which the violation occurred. Any school district transportation dispatcher who has received information by a school bus driver concerning a violation of subsection (a)(1) of this section shall provide such information to the appropriate law enforcement agency or agencies.

b. A law enforcement agency may issue a citation on the basis of the information supplied to it pursuant to subsection (a)(2)a of this section to the driver of the vehicle involved in the violation.

(b) (1) Every school bus, other than a small passenger-type vehicle having a seating capacity of not more than 15, used for the transportation of schoolchildren shall bear upon the front and rear thereof plainly visible and legible signs containing the terms "SCHOOL BUS" in letters not less than eight inches in height, shall display four visual signal lights, which shall be two alternating flashing red lights visible to the drivers of vehicles approaching from the front of said bus and two alternating flashing red lights visible to the drivers of vehicles approaching from the rear of said bus, and may also display four additional visual signal lights, which shall be yellow signal lights mounted near each of the four red lights and at the same level but closer to the vertical center line of the bus and which shall be alternately flashing with two visible to the front and two visible to the rear. These visual signal lights shall be mounted as high as practicable, shall be as widely spaced laterally as practicable and shall be located on the same level. These lights shall have sufficient intensity to be visible at 500 feet in normal sunlight.

(2) a. When a school bus is equipped only with red visual signal lights, they shall be actuated by the driver of said school bus whenever such vehicle is stopped for the purpose of receiving or discharging schoolchildren and at no other time; but such lights need not be actuated when any said school bus is stopped at locations where the local traffic regulatory authority has by prior written designation declared such actuation unnecessary.

b. A school bus shall be exempt from the provisions of subsection (b)(2)a of this section when stopped for the purpose of discharging or loading passengers who require the assistance of a lift device only when no passenger is required to cross the roadway. Such buses shall stop as far to the right of the roadway as possible to reduce obstruction to traffic.

(3) When a school bus is equipped with alternating flashing yellow lights in addition to the red lights and when the use of a signal light system is required, the yellow lights shall be actuated at least 200 feet prior to the point at which such bus is to be stopped for the purpose of receiving or discharging schoolchildren, and the red lights shall be actuated only at the time the bus is actually stopped. On and after January 1, 1976, all school buses required to be equipped shall be equipped with such visual signal light systems as provided in this section.

(c) Every school bus used for the transportation of schoolchildren, except those small passenger-type vehicles described in subsection (a) of this section, may be equipped, and, on and after January 1, 1976, shall be equipped, with a stop signal arm mounted outside the bus on the left, alongside the driver and below the window. Such stop signal arm shall be a flat octagon with the term "STOP" printed on both sides in such a manner as to be easily visible to persons approaching from either direction. The stop signal arm shall contain two alternately flashing red lamps which are connected to the alternating flashing signal light system described in subsection (b) of this section, and the stop signal arm shall be extended only when the red visual signal lights are in operation.

(d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a

school bus which is on a different roadway. For the purposes of this section, the term "highway with separate roadways" means a highway that is divided into two or more roadways by a depressed, raised or painted median or other intervening space serving as a clearly indicated dividing section or island.

(e) Every school bus shall stop as far to the right off the highway, road or street as possible before discharging or loading passengers and, when possible, shall not stop where the visibility is obscured for a distance of 200 feet either way from the bus. The driver of a school bus which has stopped shall allow time for any vehicles which have stopped behind the school bus to pass the school bus, if such passing is legally permissible where the school bus is stopped, after the school bus's visual signal lights, if any, are no longer being displayed or actuated and after all children who have embarked or disembarked from the bus are safe from traffic.

(f) (1) Except as provided in subsection (f)(2) of this section, any person who violates any provision of subsection (a)(1) of this section commits a traffic offense.

(2) Any person who violates the provisions of subsection (1) of subsection (a) of this section commits a traffic offense if such person has been convicted within the previous five years of a violation of subsection (1) of subsection (a) of this section.

(g) The provisions of this section shall not apply in the case of public transportation programs for pupil transportation under C.R.S. § 22-51-104(1)(c), as amended from time to time.

(Code 1994, § 11.01.1903; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

Sec. 16-640. Regulations for school buses; regulations on discharge of passengers; penalty; exception.

(a) The state board of education, by and with the advice of the executive director of the department, shall adopt and enforce regulations not inconsistent with this chapter to govern the operation of all school buses used for the transportation of schoolchildren and to govern the discharge of passengers from such school buses. Such regulations shall prohibit the driver of any school bus used for the transportation of schoolchildren from discharging any passenger from the school bus which will result in the passenger's immediately crossing a major thoroughfare, except for two-lane highways when such crossing can be done in a safe manner, as determined by the local school board in consultation with the local traffic regulatory authority, and shall prohibit the discharging or loading of passengers from the school bus onto the side of any major thoroughfare whenever access to the destination of the passenger is possible by the use of a road or street which is adjacent to the major thoroughfare. For the purposes of this section, the term "major thoroughfare" means a freeway, any U.S. highway outside any incorporated limit, interstate highway or highway with four or more lanes, or a highway or road with a median separating multiple lanes of traffic. Every person operating a school bus or responsible for or in control of the operation of school buses shall be subject to said regulations.

(b) Any person operating a school bus under contract with a school district who fails to comply with any of said regulations is guilty of breach of contract, and such contract shall be canceled after notice and hearing by the responsible officers of such district.

(c) Any person who violates any provision of this section is guilty of a traffic offense and, upon conviction thereof, shall be punished by a fine or by imprisonment in the county jail or by both such fine and imprisonment.

(d) The provisions of this section shall not apply in the case of public transportation programs for pupil transportation under C.R.S. § 22-51-104(1)(c), as amended from time to time.

(Code 1994, § 11.01.1904; Ord. No. 80, 1997, § 2, 12-16-1997; Ord. No. 51, 2011, § 1, 12-20-2011)

~~**Editor's note**— Ordinance 80, 1997, repealed chapters 11.04 and 11.08 and adopted chapter 11.01. For informational purposes only, the legislative history for chapter 11.04 is as follows: Ord. 18, 1981; Ord. 22, 1982; Ord. 20, 1983; Ord. 10, 1984; Ord. 11, 1984; Ord. 14, 1984; Ord. 15, 1984; Ord. 39, 1984; Ord. 81, 1984; Ord. 95, 1984; Ord. 48, 1985; Ord. 7, 1986; Ord. 40, 1988; Ord. 41, 1988; Ord. 42, 1988; Ord. 43, 1988; Ord. 44, 1988; Ord. 45, 1988; Ord. 46, 1988; Ord. 47, 1988; Ord. 48, 1988; Ord. 49, 1988; Ord. 9, 1989; Ord. 31, 1990; Ord. 46, 1991; Ord. 48, 1993; Ord. 56, 1993; Ord. 8, 1994; Ord. 27, 1994; Ord. 48, 1995; Ord. 49, 1995; Ord. 63, 1995; Ord. 19, 1996. The legislative history for Ch. 11.08 is as follows: Prior Code 20-18(a),(b), 20-19(c); Ord. 18, 1981; Ord. 56, 1993; Ord. 60, 1995; Ord. 63, 1995.~~

Secs. 16-641--16-668. Reserved.

CHAPTER 2. PARKING INFRACTIONS

Sec. 16-669. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned vehicle means:

(1) Any vehicle left unattended on private property for a period of 24 hours or longer without the consent of the owner or lessee of such property or owner's or lessee's legally authorized agent;

(2) Any vehicle left unattended on public property, including any portion of a street or highway right-of-way, within the city for a period of 72 hours or longer;

(3) Any vehicle left unattended on public property, including any portion of a street or highway right-of-way, within the city that is not registered or does not have a license plate with a current registration sticker attached thereto in violation of C.R.S. §§ 42-3-121 and 42-3-114, except as provided for in C.R.S. § 42-3-103;

(4) Any vehicle left unattended on public property, including any portion of a street or highway right-of-way, within the city that is in a disabled or inoperable condition. A vehicle shall be deemed to be in a disabled or inoperable condition if it is junked; wrecked; wholly or partially dismantled; missing essential parts; unable to perform the functions or purposes for which it was originally manufactured; or which, due to any mechanical failure or any damage, is inoperable under its own power; or

(5) A motor vehicle fitted with an immobilization device that is on public property for a period of 72 hours or longer.

Designee means the ~~employee or~~ employees designated by the city manager through administrative rule.

Motor vehicle or *vehicle* means any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; except that the term does not include electrical assisted bicycles, low-power scooters, wheelchairs, or vehicles moved solely by human power.

Parking enforcement officers means any city employee who has been authorized by the city manager to enforce any of the paring violations set forth in this Code. All employees of the city police department are designated parking enforcement officers.

Pickup camper means a camper body capable of being loaded or unloaded from or to the bed of a pickup truck.

Trailer means any wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways.

(Ord. No. 12, 2019, exh. G, § 11.02.010, 3-19-2019)

Sec. 16-670. Violations.

Unless otherwise specified, all violations of this chapter shall be designated parking infractions and shall be punished pursuant to chapter 12 of title 1. Those violations designated as traffic infractions shall be punished pursuant to chapter 9 of title 1.

(Ord. No. 12, 2019, exh. G, § 11.02.020, 3-19-2019)

Sec. 16-671. Stopping, standing or parking prohibited in specified places.

(a) Except as otherwise provided in subsection (d) of this section, no person shall stop, stand or park a vehicle or trailer, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or an official traffic control device, in any of the following places:

(1) On a sidewalk;

(2) Within an intersection;

(3) On a crosswalk;

(4) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic authority indicates a different length by signs or markings;

(5) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(6) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(7) Upon any bridge or other elevated structure or within a tunnel;

(8) On any railroad tracks;

(9) On any controlled-access highway;

(10) In the area between roadways of a divided highway, including crossovers;

(11) At any other place where official signs or markings prohibit or limit standing or parking;

(12) Along any officially designated and posted snow removal route during a snow emergency;

(13) In any alleyway, except as necessary during the expeditious loading and unloading of merchandise and freight;

(14) On any parkway;

(15) Along any roadway signed for roadway improvements on an identified date such that it states no parking on a specified date or time

(16) On any public right-of-way with a vehicle or trailer with expired, missing or fictitious plates.

(b) Except as otherwise provided in subsection (d) of this section, in addition to the restrictions specified in subsection (a) of this section, no person shall stand or park a vehicle or trailer, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or an official traffic control device, in any of the following places:

(1) Within five feet of a public or private driveway;

(2) Within five feet from the curb line directly in front of a fire hydrant;

(3) Within 20 feet of a crosswalk at an intersection;

(4) Within 30 feet upon the approach to any flashing beacon or signal, stop sign, yield sign or traffic control signal located at the side of a roadway, measured from the curb line directly in front of the beacon, signal or sign;

(5) Within 20 feet of the driveway entrance to any fire station or on the side of a street opposite the entrance to any fire station, within 75 feet of said entrance when properly signposted;

(6) At any other place where official signs or markings prohibit standing or parking.

(7) Within a marked fire lane.

(c) In addition to the restrictions specified in subsections (a) and (b) of this section, no person shall park a vehicle or trailer, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device, when and where any of the following conditions exist:

(1) Within 50 feet of the nearest rail of a railroad crossing;

(2) At any place where official signs and or markings prohibit parking.

(Ord. No. 12, 2019, exh. G, § 11.02.040, 3-19-2019)

Sec. 16-672. Parking in excess of 72 hours.

(a) It shall be unlawful for any owner or operator of a vehicle to leave that vehicle parked in the same place on a public street or on public property continuously for a period in excess of 72 hours where no other time limitation has been specified.

(b) A vehicle shall be considered in violation of this section if it has been determined by parking enforcement that the vehicle has not moved or cannot be moved upon its own power.

(Ord. No. 12, 2019, exh. G, § 11.02.050, 3-19-2019)

Sec. 16-673. Parking at curb or edge of roadway.

(a) Except as otherwise provided in this section, every vehicle or trailer stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(b) Except as otherwise provided by local ordinance, every vehicle or trailer stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder or with its left-hand wheels within 12 inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

(c) Local authorities may by ordinance permit angle parking on any roadway; except that angle parking shall not be permitted on any state highway unless the department of transportation has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(Ord. No. 12, 2019, exh. G, § 11.02.060, 3-19-2019)

Sec. 16-674. Parking in alleys.

(a) No person shall park a vehicle or trailer within an alley except during the necessary and expeditious loading and unloading of merchandise or freight.

(b) No person shall stop, stand or park a vehicle or trailer within an alley in such position as to block the driveway or entrance to any abutting property.

(c) No person shall park a vehicle or trailer within an alley where signs or markings prohibit such parking.

(Ord. No. 12, 2019, exh. G, § 11.02.070, 3-19-2019)

Sec. 16-675. Angle parking.

On those streets which have been approved and signed or marked for angle parking, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings, nor shall any person back a vehicle into any angle parking space on streets which have been approved and signed or marked for angle parking.

(Ord. No. 12, 2019, exh. G, § 11.02.080, 3-19-2019)

Sec. 16-676. Parking certain vehicles prohibited in specified areas; exceptions.

(a) *Parking oversized vehicles on public right-of-way.* No person shall stop, park or leave standing any vehicle with 6,000 pounds or more in weight, whether such vehicle be attended or unattended, in public rights-of-way in any area of the city zoned R-L, R-M, R-H, RMH or RE, for more than 48 hours. A vehicle owner of any 6,000 or greater weight vehicle shall not park said vehicle on the street in front of the owner's residence or within 100 feet of his residence, if the vehicle can legally be parked on the owner's property instead. No person shall park or leave standing any vehicle exceeding six feet in height in a public right-of-way in such a manner that any part of the vehicle that exceeds 42 inches in height shall be:

(1) Within 30 feet of an intersection or a crosswalk; or

(2) Within five feet of a public or private driveway.

(b) *Parking oversized vehicles on private property.* No person shall park or leave standing any vehicle exceeding six feet in height on private property in such a manner that any part of that vehicle which exceeds 42 inches in height shall be:

(1) Within five feet of the flow line of public rights-of-way; or

(2) Within 12 inches of the edge of any attached or detached sidewalk in a public right-of-way.

(c) *Obstructing traffic control devices with oversized vehicles.* No person shall park or leave standing a vehicle in a public right-of-way in such a manner that any part of the vehicle that exceeds six feet in height shall be within 30 feet of any official traffic control device.

(d) *Detached trailers, pickup campers and boats.*

(1) No trailer shall be detached from a towing vehicle and left standing in any public right-of-way unless the owner has obtained an appropriate permit for building or construction, or as authorized by subsection (e)(3) of this section.

(2) No pickup camper shall be unloaded from a pickup truck and left standing in any public right-of-way.

(3) No boat, whether standing on a trailer or standing by itself, shall be left standing on any public right-of-way unless attached physically to a motor vehicle.

(e) *Oversized commercial vehicles.* For purposes of this section, the term "oversized commercial vehicle" means any vehicle registered, licensed or used for commercial purposes or displaying advertisements for commercial enterprise and exceeding 20 feet in length or trailers exceeding 15 feet or eight feet or more in height, or 8,000 pounds or more in weight. Oversized commercial vehicles are prohibited from parking in any area in the city zoned R-L, R-M, R-E, R-MH or R-H, either on the street, traveled roadway or public right-of-way, with the following exceptions:

(1) Loading or unloading moving vans or similar-type vehicles used for moving personal goods, for a period not to exceed 24 hours. Pods or similar temporary storage enclosures shall be regulated the same as oversized commercial vehicles and shall not exceed a period of 48 hours;

(2) Temporary parking for purposes of pick-up or delivery, for a period not to exceed 30 minutes;

(3) Construction equipment or machinery employed in any authorized construction project, for a period not to exceed the completion of such construction or construction project and must comply with all regulatory parking requirements, and obtain all required permits.

(f) *Prohibited uses.* No person shall use any motor vehicle, bus, trailer, coach, mobile home, self-propelled motor home or recreational equipment for living, sleeping, housekeeping or preparation of food while parked on any public right-of-way or on publicly owned property within the city except in accordance with title 8.

(g) *Measurements.* Measurements made in the enforcement of this section shall be made as follows:

(1) The height of vehicles shall be measured perpendicular to the parking surface to the uppermost portion of the vehicle, including loads or any projections attached thereto, with the exception of radio antennae, exhaust pipes and vents.

(2) The length of vehicles shall be measured parallel to the long axis of the vehicle and shall include any projections permanently or temporarily attached thereto.

(Ord. No. 12, 2019, exh. G, § 11.02.090, 3-19-2019)

Sec. 16-677. Parking of compact cars only; tow away zone on certain streets.

(a) On any street or at any place within the city on public rights-of-way or on public property when appropriate signs are posted giving notice of parking of compact cars only as authorized, no person shall stop, stand or park a vehicle in any manner unless such vehicle is a compact car, and such vehicle is wholly contained, including bumpers and any type of attached projection, within the pavement markings.

(b) For purposes of this section only, the term "compact car" is defined as any vehicle no longer than 16 feet, such measurement to be made parallel to the long axis of the vehicle and including any projections permanently or temporarily attached thereto.

(c) The traffic engineer, or his designee, shall cause visible markings to be placed on the pavement, such markings to establish side and end markings for compact only parking spaces.

(d) Compact-car-only parking areas shall be established by the traffic engineer or his designee after consultation with the chief of the fire department. Such parking shall be established to maintain necessary fire emergency lanes. The traffic engineer or his designee shall cause such lanes to be clearly marked as fire lanes; tow-away zones.

(e) Any vehicle parked, stopped or standing in violation of subsection (a) of this section may be towed away.

(Ord. No. 12, 2019, exh. G, § 11.02.110, 3-19-2019)

Sec. 16-678. Parking restrictions.

(a) The designee may designate certain areas that are subject to parking restrictions based upon factors to include, but not be limited to:

(1) Proximity to special generators; availability of both on- and off-street parking;

(2) Vehicular and parking capacity, including the width, grade and curve of the area's streets;

(3) Existing traffic control measures;

(4) Traffic volume; and

(5) Utility and emergency service access.

(b) The designee shall establish the boundaries of each area that is subject to parking restrictions and each area shall be identified through appropriate postings and signage.

(c) Parking restrictions may include:

(1) Areas where parking is authorized by permit only pursuant to section 16-680;

(2) Areas where parking is limited by posting of appropriate signage; and

(3) Restricted parking zones as authorized in section 16-704.

(Ord. No. 12, 2019, exh. G, § 11.02.120, 3-19-2019)

Sec. 16-679. Overtime parking violations generally.

(a) Where any section of this chapter, or any sign posted pursuant to the provisions of this chapter, prohibits parking in excess of any stated period of time in any given parking space or other designated area, a vehicle shall be considered in violation of that restriction if it does not comply with instructions outlined on the signage.

(b) This section shall not apply if a payment has been made for overtime parking in a restricted parking zone as authorized in section 16-690.

(Ord. No. 12, 2019, exh. G, § 11.02.130, 3-19-2019)

Sec. 16-680. Parking by permit only; time limitations.

(a) On any street or at any place within the city when appropriate signs are posted giving notice of parking by permit only as authorized, no person shall stop, stand or park a vehicle in any manner unless such vehicle shall have a valid permit for such parking.

(b) Permits for parking in permit parking areas shall be issued by the designee. The designee shall adopt procedures for the issuance of such permits, the duration of the permits and required fees. The designee shall also determine the location of permitted areas.

(c) Residential permit areas will be designated by the designee based on occupancy criteria and in accordance with guidelines established by the parking services office.

(d) The city may enter into agreements with governmental and non-governmental entities that own parking lots available for public use, authorizing parking to be enforced by parking enforcement officers. Said agreements shall require the posting of appropriate signs.

(Ord. No. 12, 2019, exh. G, § 11.02.140, 3-19-2019)

Sec. 16-681. Restricted parking zones.

(a) The designee may establish restricted parking zones within the city. Restricted parking zones shall contain posted time limits that may include other restrictions for parking in the street that apply to all vehicles.

(b) No person shall stop, stand or park a vehicle in any manner in excess of the posted time limitation in any restricted parking zone except as set forth in subsection (c) of this section.

(c) Overtime parking within a restricted parking zones is authorized only if payment is made to the city for such additional time.

(1) Such payment may be made through parking payment devices, through electronic means, or in any other manner deemed appropriate by the designee.

(2) Each restricted parking zone sign shall display the days and hours when the requirement to make payment shall apply.

(Ord. No. 12, 2019, exh. G, § 11.02.150, 3-19-2019)

Sec. 16-682. Rate setting for parking payment devices and permits.

The designee shall determine parking rates to be charged at parking payment devices for parking in city rights-of-way and other city-controlled parking areas. Rates may vary according to location, time of day, maximum parking time allowed, the capabilities of available parking payment devices, and any other factors the designee determines are pertinent.

(Ord. No. 12, 2019, exh. G, § 11.02.160, 3-19-2019)

Sec. 16-683. Parking privileges for persons with disabilities.

(a) ~~As used in this section:~~ The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

License plate or *placard* means a license plate or placard issued pursuant to state law.

Person with a disability has the meaning provided for such term pursuant to state law.

(b) A vehicle with a license plate or a placard obtained pursuant to C.R.S. § 42-3-204, or as otherwise authorized by subsection (d) of this section, may be parked in public parking areas along public streets but are held to the same time limitations as all others.

(c) Reserved parking spaces.

(1) A person with a disability may park in a parking space identified as being reserved for use by persons with disabilities, whether on public property or private property available for public use. A placard or license plate obtained pursuant to C.R.S. § 42-3-204, or as otherwise authorized by subsection (d) of this section, shall be clearly displayed at all times on the vehicle while parked in such space.

(2) The owner of private property available for public use may post signs or markings identifying parking spaces reserved for use by persons with disabilities. Such posting shall be a waiver of any objection the owner may assert concerning enforcement of this section by parking enforcement officers or peace officers of any political subdivision of this state, and such officers are hereby authorized and empowered to so enforce this section, provisions of law to the contrary notwithstanding.

(3) Each parking space reserved for use by persons with disabilities, whether on public property or private property, shall be marked with an official upright sign or official markings on the pavement, which sign may be stationary or portable, identifying such parking space as reserved for use by persons with disabilities.

(d) Persons with disabilities from states other than Colorado shall be allowed to use parking spaces for persons with disabilities in Colorado so long as such persons have valid license plates or placards from their home state that are also valid pursuant to 23 CFR 1235.

(e) It is unlawful for any person other than a person with a disability to park in a parking space on public or private property that is clearly identified by an official sign or pavement markings as being reserved for use by persons with disabilities unless:

(1) Such person is parking the vehicle for the direct benefit of a person with a disability to enter or exit the vehicle while it is parked in the space reserved for use by persons with disabilities; and

(2) A license plate or placard obtained pursuant to C.R.S. § 42-3-204, or as otherwise authorized by subsection (d) of this section, is displayed in such vehicle.

(f) Any person who is not a person with a disability and who exercises the privilege defined in subsection (b) of this section or who violates the provisions of subsection (e) or (f) of this section commits a traffic offense.

(g) Any person who is not a person with a disability and who uses a license plate or placard issued to a person with a disability pursuant to C.R.S. § 42-3-204, in order to receive the benefits or privileges available to a person with a disability under this section, commits a traffic offense.

(h) Any law enforcement officer, public safety technician or authorized parking enforcement official may check the identification of any person using a license plate or placard for persons with disabilities in order to determine whether such use is authorized.

(i) It is unlawful for any person to park a vehicle so as to block reasonable access to curb ramps or passenger loading zones, as identified in 28 CFR 36 (Appendix A), that are clearly identified and are adjacent to a parking space reserved for use by persons with disabilities unless such person is loading or unloading a person with a disability.

(j) It shall be the duty of the traffic engineer to provide for adequate handicapped parking zones on public property as authorized by law. Handicapped parking zones on private property that are available for public use shall be posted with a sign meeting the requirements of sign R7-8 as provided for in Section 2B-31 of the United States Department of Transportation, Federal Highway Administration Manual on Uniform Traffic Control Devices.

(Ord. No. 12, 2019, exh. G, § 11.02.170, 3-19-2019)

Sec. 16-684. Abandoned and unattended vehicles unlawful.

(a) It is unlawful for any person to abandon any vehicle upon public property or upon private property other than his own.

(b) It is unlawful for any person to leave any vehicle which he owns or controls unattended within any portion of a street or highway right-of-way within the city for a period of 72 hours or more.

(c) Nothing in this chapter shall limit the authority of a parking enforcement officer to move or impound a vehicle as authorized in this title.

(Ord. No. 12, 2019, exh. G, § 11.02.180, 3-19-2019)

Sec. 16-685. Authority to impound vehicles.

(a) Any vehicle, attended or unattended, standing upon any portion of a street or highway right-of-way within the city in such a manner as to constitute a hazard or obstruction to traffic or to roadway maintenance shall be impounded as authorized in article XVIII of chapter 1 of this title.

(b) Any abandoned vehicle shall be impounded as authorized in article XVIII of chapter 1 of this title.

(c) During a snow emergency or roadway improvement project, the director of public works, or his designee, may direct that any vehicle illegally parked upon a properly signed and posted snow removal route or within a roadway improvement project area, may be towed to either the nearest legal parking area or be impounded in the same manner as prescribed for an abandoned vehicle in article XVIII of chapter 1 of this title.

(Ord. No. 12, 2019, exh. G, § 11.02.190, 3-19-2019)

Secs. 16-686—16-698. Reserved.

CHAPTER 3. RAILROADS

ARTICLE I. REGULATIONS GENERALLY

Sec. 16-699. Duties of railroads as to streets, etc.; improvements, generally.

Railroad companies operating within the corporate limits of the city are required to keep the right-of-way and the streets and alleys over which they run properly drained, litter-free and weed-free, and to use street lights whenever directed by the city council, to construct, maintain and keep in repair to their full right-of-way width all crossings over all streets, alleys and ditches used by them, to construct and maintain drains and culverts where crossed by any line of the railroad over all streets or alleys over which they run, and to comply with orders of the city council, directing the laying and construction of railroad tracks, turnouts or switches and to regulate the grade of the same and requiring all such companies to conform to the grade of the streets and alleys of the city as they may be hereafter or are now established. Such crossings shall be constructed, maintained and repaired in accordance with specifications now on file in the department of public works.

(Code 1994, § 11.12.010; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-700. Duty of railroads as to streets, etc., improvements; payment of cost, generally.

Railroad companies shall pay the cost of grading, paving, repaving, draining and repairing streets and alleys used or occupied by each railroad company.

(Code 1994, § 11.12.020; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-701. Duty of railroads as to streets, etc., improvements; portion of street, etc., deemed used by companies.

The portion of the street or alley used or occupied by railroad companies, under the provisions of the two preceding sections, shall be deemed to be the space between their tracks and 30 inches on the outside of each rail and all of the space between two or more tracks, turnouts or switches.

(Code 1994, § 11.12.030; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-702. Duty of railroads as to streets, etc., improvements; procedure where railroad occupies space already occupied by another railroad.

Any railroad company occupying any street or alley already occupied by any company referred to in this chapter, in addition to paying for paving or repaving, as provided for in the preceding sections, shall pay one-half of the cost of paving or repaving between the tracks of the two road beds when the distance between track centerlines is 50 feet or less.

(Code 1994, § 11.12.040; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-703. Duty of railroads as to streets, etc., improvements; cost to constitute lien if paid by city.

The costs of improvement, as provided for in this chapter, in case the cost is paid by the city, shall be a lien upon the property and franchise of any such company and may be assessed and taxed against the property in the same manner as other taxes are levied as provided for under state statutes and municipal ordinance.

(Code 1994, § 11.12.050; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-704. Maintenance of drainage structures.

Every railroad company shall install and maintain, including mowing and control of weeds, all ditches, drains, sewers and culverts along and under railroad tracks to permit the natural drainage of water from the right-of-way and adjacent property.

(Code 1994, § 11.12.060; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-705. Compliance; notice.

Whenever the grade of any street, alley or highway of the city, over which a railroad track is constructed, is in

any manner changed, the owning railroad company shall raise or lower (as the case may be) the roadbed and track to correspond with such grade, within ten days after receiving written notice of the change, or change of grade. Failure to do so shall be subject to a penalty as provided in chapter 9 of title 1 of this Code for each and every day thereafter during which such failure continues, unless for good cause shown the city council allows additional time.

(Code 1994, § 11.12.070; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-706. Service of notice to comply.

A railroad company that has constructed and is not maintaining a railroad crossing in a manner that is in compliance with the requirements set forth in this chapter may be served with notice to comply by the city serving written notice of noncompliance upon the resident agent of the railroad company. The written notice shall identify the location of the noncomplying crossing and specify the condition that needs to be corrected to bring the same into compliance.

(Code 1994, § 11.12.080; Ord. No. 8, 1996, § 2, 3-5-1996)

Secs. 16-707--16-725. Reserved.

ARTICLE II. CROSSINGS

Sec. 16-726. Abandonment of tracks; removal required.

(a) Railway companies, upon abandonment of use of railroad tracks located in streets, alleys and other public ways within the corporate limits of the city, shall remove the railroad tracks and repair the street, alley or other public way from which the railroad tracks are removed to a condition that is equal to the street, alley or other public way in which it is located.

(b) The presence of railroad tracks in a street, alley or other public way after a railway company has abandoned the use of the railroad tracks is declared to be a public nuisance and the city attorney shall be authorized, after 30 days' written notice to the owner railroad company, to bring appropriate legal action in the county district court, to cause such railroad tracks to be removed and to take whatever other action is deemed to be appropriate.

(Code 1994, § 11.12.100; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-727. Trains not to obstruct streets.

It is unlawful for any railroad train to be operated in a manner as to prevent the use of any street for the purpose of travel for a period of time longer than five minutes, except that this provision shall not apply to trains or cars in motion or engaged in switching, or when trains are stopped to comply with signals affecting safe movement of trains, to avoid collisions, or when disabled.

(Code 1994, § 11.12.110; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-728. Standing of cars near grade crossings.

Whenever the tracks of a railroad cross a street or highway at a grade, it is unlawful to leave any railroad car or engine standing within 30 feet of the roadway unless the crossing is protected by a flagman.

(Code 1994, § 11.12.120; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-729. Erection and maintenance of railroad signals.

At all railroad grade crossings listed in any schedule approved by the city council, it shall be the duty of the designated railroad to install, maintain and operate a clearly visible electrical or mechanical railroad signal of a type approved by the traffic engineer and as required by federal and state laws and regulations.

(Code 1994, § 11.12.130; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-730. Leaving vehicles on railroad property.

It is unlawful for any person to drive or leave an automobile, truck or other vehicle upon the property of any railroad company, in any area not established as a public road or crossing, including areas adjoining any passenger, freight or terminal station or depot:

(1) Except for such time as may be reasonably necessary:

a. For the purpose of then transacting business with or serving such railroad or tenant of such railroad or United States mail or railway express agency, at or on such station or depot property; or

b. For the purpose of then becoming a passenger or then taking, meeting or receiving freight, baggage or passengers at such station or depot.

(2) This section shall not apply to tenants occupying space in or on such railroad property.

(Code 1994, § 11.12.140; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-731. Whistling posts and sounding whistle at approach required.

Every railroad company, corporation or person owning or operating a line of railroad, any portion of which lies within the city limits, shall place at the city limits a whistling post, and all persons in charge of any engine or train shall, upon approaching such post, blow or cause to be blown a whistle, and at all times while such engine or train is moving within the city limits, such persons in charge thereof shall ring or cause to be rung the bell upon such engine at each grade crossing to notify all persons of the approach of such engine or train.

(Code 1994, § 11.12.150; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-732. Unlawful acts.

It is unlawful for any person not in the employ of a railway company to:

(1) Climb upon, hold to or in any manner attach himself to any locomotive engine, freight or passenger car or train while the same is in motion or standing still;

(2) Ride or attempt to ride upon any locomotive engine, railroad train or in or upon any part thereof;

(3) Interfere with the operation of any railroad car, locomotive or train; or

(4) Place any obstruction upon or interfere with any railroad track, roadbed or switch.

(Code 1994, § 11.12.160; Ord. No. 8, 1996, § 2, 3-5-1996)

Secs. 16-733--16-762. Reserved.

ARTICLE III. WARNING DEVICES AT CROSSINGS

Sec. 16-763. Purpose.

It is necessary for the safety, welfare and protection of the public that warning or protective devices be installed at all grade level intersections of streets and railroad tracks within the city as hereinafter provided.

(Code 1994, § 11.12.170; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-764. Conformance to federal standards.

The installation, maintenance and/or operation of all grade crossing signs, signals and devices provided for herein shall be in accordance with the Manual on Uniform Traffic Control Devices, currently approved by the state department of transportation, or revisions thereto.

(Code 1994, § 11.12.180; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-765. Installation of signs required.

Every railroad company maintaining a railroad track in or through the city shall install and maintain at each crossing where the streets of the city intersect such tracks at grade level reflectorized highway grade crossing signs.

(Code 1994, § 11.12.190; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-766. Barricades.

When effecting construction at railroad crossings, railroad companies shall barricade all such construction projects in conformance with the then-current manual entitled "Work Zone Traffic Control, Standards Guidelines" (published by the U.S. department of transportation, Federal Highway Administration, 1985 edition), incorporated into this chapter by reference, or the equivalent to said manual.

(Code 1994, § 11.12.200; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-767. Street closure; prior notification of director of public works.

Railroad companies shall notify the director of the department of public works a minimum of one week prior to a proposed improvement which will require a full or partial street closing so that the department of public works may provide any or all necessary notifications and design of detour routes and required signing. All construction and detour signs will be supplied by the railroad.

(Code 1994, § 11.12.210; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-768. Removal of sight obstructions.

The city shall take all necessary action for the elimination of all removable sight obstructions at railroad crossings.

(Code 1994, § 11.12.220; Ord. No. 8, 1996, § 2, 3-5-1996)

Sec. 16-769. Penalty.

Every person and railroad company violating any of the provisions of this chapter shall be punished as provided by chapter 9 of title 1 of this Code.

(Code 1994, § 11.12.230; Ord. No. 8, 1996, § 2, 3-5-1996)

Title 17

RESERVED

Title 18

STREETS, SIDEWALKS AND PUBLIC PLACES

CHAPTER 1. STREETS, SIDEWALKS AND OTHER RIGHT-OF-WAY IMPROVEMENTS

ARTICLE I. GENERALLY

Sec. 18-1. Street standards.

All roadways, sidewalks and any applicable construction within the right-of-way shall meet the standards set forth in the Greely Street Standards, dated December 1, 1993, which are adopted by reference here and in chapter 7 of title 22 of this Code, section 22-261.

Sec. 18-2. Improvements on public rights-of-way; permit required.

No person, either as owner or as a public right-of-way contractor, shall commence the construction, installation, alteration or repair of any sidewalk, curb, gutter, driveway, curb cut, street, alley or any other improvement in or under a public right-of-way, in the city or in subdivisions or other areas subject to contract with the city for water or sewer service, without first obtaining a permit with respect to such work in accordance with this section and sections 18-3 and 18-4. In the event physical alterations to the public right-of-way are performed, such work shall be in conformance to the city's requirements of the engineering design standards and construction specifications and specifications governing utility cuts and excavation.

(Prior Code, § 19-19(a); Code 1994, § 13.04.010; Ord. No. 45, 2016, § 1(exh. A), 12-20-2016)

Sec. 18-3. Permit application; requirements.

(a) Application for the permits provided for in this chapter shall be directed to the director of public works and shall be accompanied by the following:

(1) Detailed plans and specifications of the proposed work;

(2) Evidence that the applicant is not delinquent in payments due the city on prior work;

(3) Evidence of all permits or licenses required to do the proposed work;

(4) A satisfactory plan of work showing protection for the subject property and adjacent properties when the director of public works determines such protection is necessary;

(5) A certificate of liability insurance naming the city as an additional insured in the amounts determined to be appropriate by the director of public works;

(6) Payment of all fees provided for in section 18-4; and

(7) Evidence showing that the person or firm in charge of the project has a valid city public right-of-way contractor's license.

(b) The permit shall be granted if the plans and specifications reveal that the work will be constructed in accordance with the standards and specifications provided for in section 18-22.

(Prior Code, § 19-19(b); Code 1994, § 13.04.020; Ord. No. 45, 2016, § 1(exh. A), 12-20-2016)

Sec. 18-4. Permit fee.

The applicant for a permit described in section 18-2 shall pay to the director of finance an application and processing permit fee, set in writing annually by the city manager, to cover the approximate cost to the city of administering the provisions of this chapter.

(Prior Code, § 19-19(c); Code 1994, § 13.04.030; Ord. No. 66, 2007, § 1, 11-6-2007)

Sec. 18-5. Sidewalks, curbs and gutters; construction; compliance required; warranty of work.

(a) Sidewalks, curbs and gutters may be constructed by the owners of the property abutting upon the same and at their own expense, within the city, when streets are laid out, opened and improved and in common use by foot travelers within the corporate limits of the city. Such structures shall be constructed of the character, location, grade, material and in the manner provided in this chapter.

(b) As a condition for the issuance of the permit, the permittee shall warrant against any defects due to faulty materials or workmanship for two years following the final inspection and acceptance by the city.

(Prior Code, § 19-2; Code 1994, § 13.04.040; Ord. No. 45, 2016, § 1(exh. A), 12-20-2016)

Sec. 18-6. Construction supervision and ordering repair.

It shall be the duty of the city engineer to approve all material, to supervise the construction of all sidewalks, curbs and gutters within the city, to see that the same are kept in repair and, in case any thereof become unsafe or in need of repair, to cause the same to be repaired at the expense of the adjacent property owner, provided in this section as follows:

(1) If any owner, adjacent property owner or agent in charge, fails to repair or replace damaged sidewalks or curbs and gutters as required in this section within 60 days after notice, the ~~administrative authority~~ city manager or designee may have the sidewalk or curb and gutter repaired or replaced by an employee of the city or pursuant to subsections (2) and (3) of this section by a private individual or firm and charge the cost thereof to such owner together with an additional ten percent for inspections and other incidentals.

(2) If the city engineer determines that employees of the city are not available to repair or replace damaged sidewalks or curbs and gutters pursuant to the provisions of this section, the city engineer may solicit three or more bids from private individuals or contractors to accomplish the necessary repairs, retaining the lowest bidder to accomplish the repairs.

(3) The city engineer shall provide copies of its bids attached to a notice to the individual adjacent property owner that the repairs will be accomplished by a private contractor submitting the lowest bid. Further, such notice shall state that the adjacent property owner shall be responsible for payment to the city in the amount of the lowest bid plus an additional ten percent for administrative costs and that such payment will be compelled in a covenant of law if necessary. Such notice shall be a condition precedent to maintenance of an action at law to recovery of the city's cost in abatement.

(Code 1994, § 13.04.050; Ord. No. 20, 1991, § 3, 5-21-1991; Ord. No. 45, 2016, § 1(exh. A), 12-20-2016)

Sec. 18-7. Payment of city repair costs.

In the event the sidewalks or curb and gutter is repaired by order of the city engineer, the entire cost of the repairs, together with ten percent for inspection and other administrative costs, shall be paid by the owner of the adjacent property to the director of finance within 30 days after the mailing by the director of finance to the owner of such property adjacent to the sidewalk or curb and gutter, by certified mail, notice of the assessment of such cost.

(Code 1994, § 13.04.051; Ord. No. 20, 1991, § 4, 5-21-1991; Ord. No. 45, 2016, § 1(exh. A), 12-20-2016)

Sec. 18-8. Failure to pay assessment for city repairs.

Failure to pay an assessment, as provided for in section 18-7, within such period of 30 days described therein shall cause such assessments to become a lien against the adjacent property and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time after such failure to so pay the same within 30 days, by the director of finance to the county treasurer to be placed upon the tax list for the current year to be collected in the same manner as other taxes are collected, with a ten percent penalty to defray the cost of collection, as provided by the laws of the state.

(Code 1994, § 13.04.052; Ord. No. 20, 1991, § 5, 5-21-1991; Ord. No. 45, 2016, § 1(exh. A), 12-20-2016)

Sec. 18-9. Construction on grade required.

All sidewalks, curbs and gutters constructed within the city, and outside the city in subdivisions and/or areas

where the property is subject to the conditions of the water and sewer contracts of the city, shall be constructed upon the grade.

(Prior Code, § 19-5; Code 1994, § 13.04.060)

Sec. 18-10. Conformance to established manner and mode.

Where sidewalks, curbs and gutters have theretofore been constructed on either side of any block along frontage thereof equal to or in excess of one-quarter of the length of any such block, then all sidewalks, curbs and gutters thereafter constructed along such side of such block shall conform to the established manner and mode of construction on such side of block.

(Prior Code, § 19-9(part); Code 1994, § 13.04.070)

Sec. 18-11. Contiguous; may be authorized where; width and placement.

(a) The city engineer may authorize the construction of curbs, sidewalks and gutters as one contiguous unit, with curb, sidewalk and gutters constructed together, without intervening space between the curb and sidewalk, in a new subdivision and in areas where this type of walk construction has already been constructed.

(b) Contiguous walk construction as authorized in this section shall be of uniform width of four feet and shall abut the back of the curb.

(Prior Code, § 19-9(part); Code 1994, § 13.04.080)

Sec. 18-12. Requirements and exceptions.

(a) The requirements for sidewalks, curbs and gutters shall be as prescribed by the subdivision regulations of the city and shall be constructed in accordance with the specifications of the city.

(b) The requirements prescribed by the subdivision regulations of the city for construction of sidewalks, curbs and gutters may be waived by the director of public works upon application of any person or firm required to make such improvements. Upon receipt of an application for waiver of the sidewalk, curb and gutter requirements, the director of public works shall investigate the effect which the sidewalk, curb and gutter would have on traffic and drainage conditions. The director of public works shall not grant permission for the waiver of sidewalk, curb and gutter unless he determines that it would not interfere, or tend to interfere, with the safe use of the involved street or streets by vehicular and pedestrian traffic, if the persons using the sidewalk would be endangered by traffic on the street, if they would tend to be so endangered, or if the curb and gutter cut would cause drainage problems or would aggravate existing drainage problems. If requested to do so, the director of public works shall give his reasons for not granting a waiver in writing to the applicant.

(c) If a waiver is denied and if the applicant desires review of the matter by the city council, he may apply to the city clerk within 30 days after the denial to have the matter scheduled as early as reasonably possible for consideration by the city council at a regular or special meeting. In reviewing the action of the public works director, the city council shall follow the same guidelines as are set forth in subsection (b) of this section.

(Prior Code, § 19-9.1; Code 1994, § 13.04.090; Ord. No. 25, 1983, § 2, 4-19-1983)

Sec. 18-13. Grades, plans and specifications; within city construction; approval for uniformity; filing.

For the purpose of establishing uniformity in construction of streets, sidewalks, curbs and gutters, as well as to provide for all drainage in or under the streets, it shall be the duty of the ~~administrative authority~~ city manager or designee to survey or approve the survey of the streets and avenues in the city and determine or approve the grade, plans and specifications for streets, sidewalks, curbs and gutters prior to construction. All such grades, with profiles, plans and specifications exhibiting the same, shall be made a matter of record and shall be kept on file for the use of the city and the public in the construction, alteration and repair of streets, sidewalks, curbs and gutters within the city.

(Prior Code, § 19-4(a); Code 1994, § 13.04.100; Ord. No. 46, 2012, § 1, 12-18-2012)

Sec. 18-14. Construction outside of city; approval for uniformity; filing.

For the purpose of establishing uniformity in construction of streets, sidewalks, curbs and gutters, as well as to provide for all drainage in or under the streets outside the city in subdivisions or areas where the property is

subject to the conditions of the water and sewer contracts of the city, it shall be the duty of the ~~administrative authority~~ city manager or designee to approve all plans, specifications and surveys of the streets and avenues in the subdivision or area and determine or approve the grade for streets, sidewalks, curbs and gutters. All such grades, with profiles, plans and specifications exhibiting the same, shall be made a matter of record and shall be kept on file for the use of the city and the public in the construction, alteration and repair of streets, sidewalks, curbs and gutters prior to the construction.

(Prior Code, § 19-4(b); Code 1994, § 13.04.110; Ord. No. 46, 2012, § 1, 12-18-2012)

Sec. 18-15. Right of entry ~~of administrative authority~~.

Upon presentation of proper credentials, the ~~administrative authority~~ city manager or designee may enter, at reasonable times, any subdivision or area within or without the city to perform any duty imposed upon him by sections 18-13 through 18-17.

(Prior Code, § 19-4(c); Code 1994, § 13.04.120)

Sec. 18-16. Noncompliance with provisions; stop-work power.

Whenever any work is being done contrary to the provisions of sections 18-13 through 18-17, the ~~administrative authority~~ city manager or his designee may order the work stopped, by notice in writing served on any person engaged in the doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the ~~administrative authority~~ city manager or his designee to proceed with the work.

(Prior Code, § 19-4(d); Code 1994, § 13.04.130)

Sec. 18-17. Street paving; fee for testing and inspection costs.

A fee shall be charged for all street paving authorized by the city for the purpose of paying for all laboratory expenses in the testing of the asphalt and for the time involved in the inspection of the base course and paving. The fee shall be established in accordance with section 1-38.

(Prior Code, § 19-4(e); Code 1994, § 13.04.140; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 18-18. Life expectancy determination.

Life expectancies for paving on streets, avenues and alleys financed in whole or in part through a local improvement district shall be determined by the city council on the advice of the director of public works. The determination of life expectancy shall be made separately for each local improvement district, based upon relevant data including type of construction, expected amount of usage and subsoil conditions. Such determination by the city council shall be expressed in the assessment ordinance for the local improvement district, as provided in section 18-393.

(Prior Code, § 19-4.1; Code 1994, § 13.04.150)

Sec. 18-19. Business district designated; street widths.

(a) The business district is outlined for the purposes of this chapter and shall not be considered in conflict with any present or future zoning ordinances of the city, but shall be an area designated for the purpose of controlling the width of such streets by the uniform location of sidewalks, curbs and gutters.

(b) Such area is described as follows and is contained within these following lines: bounded on the east by the Union Pacific Railroad tracks, bounded on the south by the south side of Sixteenth Street, bounded on the west by the west side of Eleventh Avenue and bounded on the north by the north side of Fifth Street and any other streets or avenues designated by ordinance or resolution as such by the city council.

(Prior Code, § 19-6; Code 1994, § 13.04.160)

Sec. 18-20. Sidewalk, curb and gutter requirements; application to adjacent business uses.

In the business district created at section 18-19, all sidewalks shall be of such width as required to extend from the lot line to the street curbline and such sidewalks shall have constructed, at the street edge thereof, a curb and gutter connection therewith, all to be constructed according to the provisions of this chapter, provided that when any property adjacent to such district is used for business purposes, the sidewalks, curb and gutter in front of such

property shall be constructed to conform to the sidewalks, curbs and gutters in such adjacent business district.

(Prior Code, § 19-7; Code 1994, § 13.04.170)

Sec. 18-21. Residence district designated; width and location of sidewalks.

All that portion of the city outside of the regularly established business district shall be known, for the purposes of this chapter, as the residence district. All sidewalks in the residence district shall be of uniform width of five feet and shall be laid with the inside edge thereof at a uniform distance of three feet from the lot line, except for contiguous walk construction provided for in section 18-20.

(Prior Code, § 19-8; Code 1994, § 13.04.180)

Sec. 18-22. Standards and specifications duty of director of public works.

The director of public works shall formulate, publish and from time to time amend written standards and specifications setting forth details as to materials, designs and methods pertaining to the construction and installation of sidewalks, curbs, gutters, driveways, curb cuts, streets, alleys and any other improvements located in or under public rights-of-way. The street standards are adopted by reference in section 22-261. The standards and specifications shall reflect good engineering practice.

(Prior Code, § 19-10; Code 1994, § 13.04.190)

Sec. 18-23. Conformance to standards and specifications required; permit required.

All persons desiring to construct, alter, repair, add to or make any sidewalk, curb, gutter, driveway, curb cut, street, alley or any other improvement located in or under a public right-of-way, in the city or in subdivisions or other areas subject to contract with the city for water or sewer service, shall first obtain a permit for such project, as required by sections 18-2, 18-3 and 18-4, and shall construct any such improvement in strict conformity to the standards and specifications referred to in section 18-22.

(Prior Code, § 19-11(a); Code 1994, § 13.04.200)

Sec. 18-24. Nonconformance to standards and specifications; stop-work order.

The director of public works may order any person constructing any improvement described in section 18-23 to immediately cease any construction not in conformity to the standards and specifications, and the director of public works may order all such nonconforming work to be removed. The director of public works shall seek enforcement, by injunction, of any such order which is not followed.

(Prior Code, § 19-11(b); Code 1994, § 13.04.210)

Sec. 18-25. Cleaning up after work required.

Upon the completion of any sidewalk, curb, gutter or curb and gutter, the site of the same shall be cleaned of all rubbish and shall be left in a neat and workmanlike manner.

(Prior Code, § 19-14; Code 1994, § 13.04.280)

Sec. 18-26. Bridges for ditches required at streets or alleys.

(a) All persons who have constructed or may construct irrigating or other ditches, or mill races, which may cross or run through or along the streets or alleys of this city, shall be required to bridge the same in a substantial manner and to the approval of the city engineer where such ditches or mill races cross streets or alleys, and any person who refuses or neglects for five days to make such bridge or bridges, when notified to do so by the city engineer, shall be fined as provided in chapter 9 of title 1 of this Code, and every day such ditches or mill races remain unbridged after the expiration of the time given in such notice shall be considered a separate offense.

(b) The time for building such bridge may be extended upon application to the city manager or city council, upon proof to their satisfaction that the work has been commenced in good faith.

(Prior Code, § 19-15; Code 1994, § 13.04.290)

Sec. 18-27. Violation; penalty by reference.

Any owner, contractor or other person failing, neglecting, omitting, resisting or refusing to comply with any

of the conditions, terms, regulations or requirements of this chapter, upon conviction thereof, shall be fined as provided in chapter 9 of title 1 of this Code.

(Prior Code, § 19-16; Code 1994, § 13.04.300; Ord. No. 22, 1982, § 9(part), 5-4-1982)

~~Chapter 13.46 Utility Structures, Apparatus, Equipment and Lines~~

~~CHAPTER 14.70 15. STREET REIMBURSEMENT~~

Sec. 18-28. Charges for connections.

Any person desiring vehicular access for property abutting a public roadway shall be required to pay a charge if all of the following circumstances exist:

(1) The section of the roadway the property abuts was designed and constructed in accordance with city specifications and requirements and with approval by the city, at the expense of one or more private persons;

(2) The section of the roadway was designed and constructed along the entire frontage of the property of the person who paid for its design and construction;

(3) The person against whom the extra charge is to be assessed requested access to the roadway within ten years of the completion of the roadway's construction; and

(4) The abutting property to be served by the access to the roadway was owned, at the time of the roadway's construction, by a person who did not pay for the construction.

(Code 1994, § 14.70.010; Ord. No. 11, 2017, § 1(exh. A), 4-4-2017)

Sec. 18-29. Computation of extra charges.

The charge for vehicular access will be computed based on the design and construction costs of the section of roadway which the property abuts by prorating the design and construction cost, without interest or other charges, against the frontage of all property abutting the section of roadway.

(Code 1994, § 14.70.020; Ord. No. 11, 2017, § 1(exh. A), 4-4-2017)

Sec. 18-30. Private payment for public roadway; reimbursement.

Private persons who pay for the design and construction of sections of public roadways and desire and are entitled to partial reimbursement for that payment shall deliver a document to the director of public works setting forth the total design and construction cost, with proof of payment, and the name and address of an individual, bank or other organization authorized to receive the partial reimbursement from the city. Only roadways constructed with the approval of the city and completed within 12 months of that approval in accordance with city specifications and requirements will be considered for reimbursement. As charges are paid to the city pursuant to sections 18-29 and 18-30, the city shall transmit such payments to the authorized individual, bank or other organization. The city shall have no responsibility to see that the individual, bank or other organization properly deals with such funds. The city shall not recognize any recipients or claimants other than the named individual, bank or other organization.

(Code 1994, § 14.70.030; Ord. No. 11, 2017, § 1(exh. A), 4-4-2017)

Sec. 18-31. <u>Interference with utility structures, apparatus, equipment and lines</u> unlawful without consent.

It is unlawful for any person to cut or raise any wire or remove any pole or in any other way interfere with any structures, apparatus, equipment or lines of public utility in the city without first giving the city engineer and the utility company 48 hours' written notice and obtaining a written consent from the utility company.

(Prior Code, § 15-92; Code 1994, § 13.46.010)

Secs. 18-32--18-59. Reserved.

~~CHAPTER 13.08~~ ARTICLE II. EXCAVATIONS AND OBSTRUCTIONS

Sec. 18-60. Applicability of chapter.

Work covered by this chapter addresses vault openings and construction work of all types relative to street improvements and utility work in public ways in the city. References of work in public ways and public right-of-way includes work in dedicated public right-of-way and in dedicated public utility and drainage easements which may be located on private property but provide corridors for publicly controlled utilities and drainage facilities. Work excluded is surface maintenance such as landscaping, gardening or other routine activities relating to property maintenance which do not constitute a conflict with utilities and street improvements and which do not include significant excavation or placement of fill materials.

(Code 1994, § 13.08.005; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-61. Permit requirements.

~~It is unlawful for any person to construct, reconstruct, make or alter any street, driveway, curb, sidewalk or excavation, and/or alter any opening or perform work of any kind within any existing or improved public way maintained by the city, which results in physical alterations thereof, or to otherwise disrupt the normal flow of traffic, unless such person has first obtained a permit for the performance of said work. In the event physical alterations to the public right-of-way are performed, such work shall be in conformance to the city's requirements of the engineering design standards and construction specifications and specifications governing utility cuts and excavation.~~ Any person desiring to perform work, as designated above, shall file for an application with the city engineer on forms to be furnished by the city engineer. The city engineer may require the filing of engineering plans, specifications and sketches for other than standard utility service taps, repairs and other minor installations, showing the proposed work in sufficient detail to permit determination of compliance with the city's regulations and standards. All work must be protected with suitable traffic control devices for safe control of vehicular and pedestrian traffic around the work site, in accordance with current requirements of the city engineer. The city engineer may require a written traffic control plan to be submitted and approved prior to issuance of a permit and/or commencing work.

(Code 1994, § 13.08.010; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-62. Approval or disapproval of application and commencement of work.

(a) No work shall commence until the city engineer has approved the application or until a permit has been issued for such work except as specifically provided in emergency situations as described in section 18-69.

(b) Within two working days of filing any application, the city engineer shall approve or disapprove the same, stating the reasons if disapproved in writing. The time required for approval or disapproval of the permit may be extended by the city engineer if, in his judgment, it is necessary to allow the checking of plans, sketches and specifications submitted, or if additional information or materials is required. Such an extension of time for approval or disapproval shall not exceed ten working days from the date of filing the required plans, sketches and specifications. In cases of time extensions, the city engineer's office will notify the applicant in writing.

(c) The disapproval of a permit or other action taken by the city engineer may be appealed by the applicant to the city manager by filing a written notice of appeal with the city clerk containing the specifications of all errors claimed in the denial of the permit within ten days of the action of the city engineer. The city manager shall review the appeal, may hold any additional hearings he may deem appropriate within ten days of the notice of appeal, and shall render his decision within ten days of appeal or supplemental hearing, whichever may last occur.

(d) The city engineer, in approving or disapproving the permit, shall act in such a manner as to preserve and protect the public ways and use thereof, but shall have no authority to govern the conduct of applicants or other persons which have no relationship to the use of preserving or protection of the public way.

(Code 1994, § 13.08.020; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-63. Jurisdiction.

The issuance of any permit hereunder shall not relieve the applicant from complying with any applicable law

or regulation declared by the state and the county and shall only reflect compliance with city requirements. All applicants for cuts, trenches, or excavations five feet or greater in depth, which may be subject to regulations by the Occupational Safety and Health Administration (OSHA), must be accompanied by proof that forms as may be required by law have been properly filed.

(Code 1994, § 13.08.030; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-64. Eligibility.

No applicant shall be eligible and qualified to receive a permit to do work within the public way of the city unless such applicant has a valid general utility/street contractor license issued by the city and has provided appropriate financial security.

(Code 1994, § 13.08.040; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-65. Repair and restoration.

All utility street cuts and construction work in the public right-of-way shall be done under the supervision of the city engineer and the cost of making the utility cut and restoring the paving thereafter shall be borne by the applicant. In addition, the applicant making the request shall bear the entire cost of any one or more repair or restoration projects required because of later settling at the site of the excavation and repair.

(Code 1994, § 13.08.050; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-66. Fees and additional charges.

(a) Permit application and processing fees for utility street cuts and construction work in the public right-of-way and public easements shall be set in writing annually by the city manager to cover the approximate cost to the city of administering the provisions of this chapter.

(b) Additional charges applicable to cover the reasonable costs and expenses of any required engineering review, additional inspection beyond that covered by normal fees, inspection of work performed outside normal business hours and work site restoration may be charged by the city to each applicant in addition to the permit fee. The applicant shall not be eligible to receive any additional permits hereunder until such deficiency is fully paid or, in the event of dispute as to the amount owed, the applicant provides financial security to the city in an amount sufficient to fully secure such payment until any appeal which may be taken hereunder is ultimately resolved.

(Code 1994, § 13.08.060; Ord. No. 21, 1991, § 4(part), 6-4-1991; Ord. No. 66, 2007, § 1, 11-6-2007)

Sec. 18-67. Financial security.

(a) Each applicant, before being issued a city contractor's license to perform work in the public right-of-way, shall provide the city financial security in an amount and form acceptable to the director of finance. The term of the financial security shall coincide with the license and shall be released upon final acceptance of the work performed under the license. Final acceptance shall not extend more than two years past the initial filing date of the permit issued for such work in the public right-of-way. This provision does not, however, relieve the applicant of responsibilities for continued maintenance of paved surfaces as outlined in section 18-65. Such financial security may be provided for individual permits and may be in the form of:

(1) Cash deposit with the city;

(2) Guarantee from a lender based upon a cash deposit, in a form acceptable to the director of finance;

(3) Irrevocable letter of credit from a state financial institution, in a form acceptable to the director of finance; or

(4) Certificate of deposit cosigned by the city.

(b) In lieu of the above financial security for individual permits, a performance bond may be provided in the amount of $10,000.00 to coincide with the license. All forms of financial security must provide warranty for the work performed under the license for a period of two years after the issuance of any permit issued to the contractor under the license.

(Code 1994, § 13.08.070; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-68. Duration and limits of permits.

(a) Each permit application shall state the starting date and the estimated completion date. The permit shall be valid only for the time period specified. If the work is not completed during the specified period the applicant may apply to the city engineer for an extension. An extension may be refused by the city engineer if the city engineer finds that the work under the original permit or as extended has not been satisfactorily performed. The city engineer may require additional financial security as a condition for granting of any such requested extension.

(b) The city engineer shall have the right and authority to regulate work under any permit issued by the city with respect to hours and days of work and measures required for the protection of traffic and safety of persons or property.

(c) Permits shall not be transferable or assignable and work shall not be performed in any place other than that specified in the permit. The applicant may subcontract the work to be performed under a permit, provided that the holder of the permit shall be and remain responsible for the performance of the work under the permit and all insurance and financial security as required. A copy of the permit shall be available for inspection upon demand at the job site at all times.

(Code 1994, § 13.08.080; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-69. Emergency work.

(a) Any person maintaining facilities in the public way may proceed with work upon the existing facility without a permit when emergency circumstances demand the work be done immediately, provided that a permit could not practicably and reasonably be obtained beforehand.

(b) Any person commencing such emergency work in the public way without a permit shall immediately thereafter apply for a permit or give notice on the first business day after commencement of such work.

(c) In the event emergency work is commenced on or within the public way of the city, the police department shall be notified within one hour from the time the work is commenced. Persons responsible for conducting such emergency work shall take all necessary safety precautions to protect the public and to direct and control traffic in accordance with current requirements of the city engineer.

(Code 1994, § 13.08.090; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-70. Suspension or revocation of permits.

(a) Any permit may be revoked or suspended by the city engineer and such revocation or suspension shall take effect immediately after notice to the applicant or person performing work for any of the following:

(1) Violation of any condition of the permit;

(2) Violation of any provision or any other ordinance or law relating to the work;

(3) The existence of any condition which does constitute or cause a condition endangering life or property.

(b) Any suspension or revocation of the permit by the city engineer may be appealed as herein provided.

(Code 1994, § 13.08.100; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-71. Insurance.

(a) Before a contractor's license is issued, the applicant shall provide the city with a certificate of insurance or other financial security in a form and amount acceptable to the city engineer. The certificate of insurance or financial security provided by the applicant shall secure the city against claims and damages for personal injury and for property damage which may arise from or out of the performance of the work, whether such performance is by the applicant, a subcontractor or anyone directly or indirectly employed by the applicant. The insurance or other financial security required shall cover, in addition, motor vehicle liability, workman's compensation and all other claims whatsoever to persons and property.

(b) The amounts of insurance or financial security required shall be prescribed as follows. Not less than $150,000.00 for injuries, including accidental death, to any one person, and not less than $400,000.00 on account of one accident, and not less than $400,000.00 for property damage.

(c) A public utility company, as described below, may be relieved of the obligation of submitting a certificate of insurance if satisfactory evidence that it is insured is submitted in advance or if the public utility company has adequate provisions for self-insurance. A public utility company shall mean any company subject to the jurisdiction of the state public utility commission or any mutual nonprofit cooperation providing gas, electricity, water, sewer service, telephone or other utility product for use by the general public.

(Code 1994, § 13.08.110; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-72. Street cuts in new street.

(a) No permit shall be issued by the city engineer which would allow an excavation or opening in a newly paved or constructed street less than three years old unless the applicant can clearly demonstrate that the public safety or interest require the proposed work, an emergency condition exists or the cut is necessary for a newly constructed residence or building to be served with required utilities and the applicant acquired ownership of the land or lot on which the newly constructed building is situated after completion of the last paving or repaving.

(b) Restoration work performed in a newly paved or constructed street less than three years old may be required to higher engineering and construction standards than those ordinarily required so that the restoration will conform with the qualities of the existing street. Any additional cost incurred as a result of the higher standards required will be borne solely by the applicant.

(Code 1994, § 13.08.120; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-73. Liability of city.

The permit application shall not be construed as imposing upon the city, an official or employee any liability or responsibility for damages to any person injured by reason of the performance of any work, inspections authorized and required, or the approval of any work within the public way of the city. The applicant agrees to save and hold harmless the city, its officers, employees and agencies for all claims, costs, damages and liabilities which may accrue by reason of work performed under the permit, unless such claim is the product or an act or omission by the city constituting gross negligence or willful misconduct. The acceptance of any permit application shall constitute such an agreement by the applicant whether the same is expressed or not.

(Code 1994, § 13.08.130; Ord. No. 21, 1991, § 4(part), 6-4-1991)

Sec. 18-74. Cellar, vault or coal-hole openings; left unprotected prohibited.

It is unlawful for any person to keep or permit to be left open or unguarded any cellar door, grating or other covering of any coal-hole, cellar or vault in any street or sidewalk or to permit any such covering or door of any premises owned, used or occupied by him, to be left open or out of repair or in any manner to be insecure.

(Code 1994, § 13.08.140; Ord. No. 21, 1991, § 4(part), 6-4-1991)

~~CHAPTER 14.80 16. EXCAVATION IN THE PUBLIC RIGHT-OF-WAY~~

Sec. 18-75. Legislative declaration.

(a) *Purpose*. To provide principles and procedures for the coordination of construction excavation within any public rights-of-way, and to protect the integrity of the rights-of-way and road system.

(b) *Objectives*. Public and private uses of rights-of-way for location of facilities employed in the provision of public services should, in the interests of the general welfare, be accommodated; however, the city must ensure that the primary purpose of the rights-of-way, namely the safe and efficient passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. In addition, the value of other public and private installations, facilities and properties should be protected, competing uses must be reconciled, and the public safety preserved. The use of the rights-of-way corridors for location of facilities is secondary to these public objectives. This chapter is intended to assist in striking a balance between the public need for efficient, safe transportation routes and the use of rights-of-way for location of facilities by public and private entities. It thus has several objectives:

(1) To ensure that the public health, safety and welfare is maintained and that public inconvenience is minimized.

(2) To facilitate work within the rights-of-way through the standardization of regulations and permitting.

(3) To conserve and fairly apportion the limited physical capacity of the public rights-of-way held in public trust by the city.

(4) To promote cooperation among the applicants and permittees, as defined herein, and the city in the occupation of the public rights-of-way, and work therein, in order to eliminate duplication that is wasteful, unnecessary or unsightly, lower the permittee's and the city's costs of providing services to the public, and minimize rights-of-way excavations.

(Ord. No. 9, 2019, att., § 14.80.010, 3-5-2019)

Sec. 18-76. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means an owner or duly authorized agent of such owner, who has submitted an application for a permit to excavate in the rights-of-way.

City means the City of Greeley, Colorado.

Conduit means a single enclosed raceway for cables, fiber optics or other wires, or a pipe or canal used to convey fluids or gases.

Department means the department of public works.

Developer means the person, partnership, corporation, or other legal entity who is improving property within the city and who is legally responsible to the city for the construction of improvements within a subdivision or as a condition of a building permit or other land use or development authorization.

Director means the director of public works of the city or his authorized representative.

Facility means, including, without limitation, any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennae, poles, ducts, fixtures and appurtenances and other like equipment used in connection with transmitting, receiving, distributing, offering, and providing broadband, utility and other services.

Landscaping means materials, including without limitation, grass, ground cover, shrubs, vines, hedges, or trees and non-living natural materials commonly used in landscape development, as well as attendant irrigation systems.

Major work means any reasonably foreseeable excavation that will affect the rights-of-way for more than five consecutive calendar days.

Owner means any person, including the city, who owns any facilities that are or are proposed to be installed or maintained in the rights-of-way.

Permit means any authorization for use of the rights-of-way granted in accordance with the terms of this chapter, and other applicable laws and policies of the city.

Permittee means the holder of a valid permit issued pursuant to this chapter and other applicable provisions of applicable law for excavation in the rights-of-way, including, but not limited to, the city for its own capital projects.

Person means any person, firm, partnership, special, metropolitan, or general district, association, corporation, company, or organization of any kind.

Rights-of-way means any public street, road, way, place, alley, sidewalk or easement, that is owned, held or otherwise dedicated to the city for public use.

(Ord. No. 9, 2019, att., § 14.80.020, 3-5-2019)

Sec. 18-77. Police powers.

A permittee's rights hereunder are subject to the police powers of the city, which include the power to adopt and enforce ordinances, including amendments to this chapter, and regulations necessary to the safety, health, and welfare of the public. A permittee shall comply with all applicable ordinances and regulations enacted, or hereafter enacted, by the city or any other legally constituted governmental unit having lawful jurisdiction over the subject

matter hereof. The city reserves the right to exercise its police powers, notwithstanding anything in this chapter or any permit to the contrary. Any conflict between the provisions of the chapter or a permit and any other present or future lawful exercise of the city's police powers shall be resolved in favor of the latter.

(Ord. No. 9, 2019, att., § 14.80.030, 3-5-2019)

Sec. 18-78. Colocation of the city's fiber conduit.

(a) *Intent*. To permit the city to collocate conduit for fiber whenever an entity is proposing construction activities that involve directional boring or open trenching within public rights-of-way.

(b) *Requirements*. To collocate and install city owned fiber conduit simultaneously with a permit holder's construction activity at the city's request:

(1) *Right-of-way permits*. All permittees proposing construction activities that involve directional boring or open trenching within public rights-of-way that extend more than 500 feet in length are required to co-locate and install city owned conduit simultaneously with the permit holder's construction activity at the city's request, unless such colocation requirement is not allowed by any other state or federal law, rule, or regulation. The city may, upon initial review of the permit application, determine that the permittee's proposed construction activity does not demonstrate a need for colocation of city infrastructure.

(2) *Colocation of conduit*. For any construction activity that requires a colocation of city conduit, the city shall, as a condition of the issuance of the permit or the continued validity of a permit, direct the permittee to install city owned conduit with tracer wire and associated infrastructure, as identified by the city, concurrent with the installation of the permittee's infrastructure following the city's review and approval of all estimated costs associated with the colocation of the city conduit. The permittee shall install the city conduit with tracer wire adjacent to the permittee's infrastructure and within the same bore or trench alignment. The city will bear all construction installation cost associated with the colocation, including the city conduit, pull boxes, and all other materials and infrastructure to be installed, including the incremental labor and equipment cost incurred by the permittee (or its contractor or subcontractor) that are reasonably and directly attributable to the required colocation of city conduit, material and infrastructure. The city shall not pay for design or potholing cost.

(3) *Documentation*. When a colocation of city conduit is required, the permittee may be required to submit signed as-built documentation of the city's conduit to the city if physical verification of the city conduit is not possible.

(4) *Fees*. The city designated representative may incrementally waive rights-of-way permit fees set forth for any construction activities associated with the colocation project.

(Ord. No. 9, 2019, att., § 14.80.040, 3-5-2019)

Sec. 18-79. Construction of new streets.

(a) *Intent*. This is intended to require those constructing public streets, public improvements, and alleys, including the city and developers, to provide and install such conduit and appurtenances to accommodate future broadband needs within the rights-of-way without further excavation.

(b) *Requirements*. Whenever any new public street or alley is constructed, whether by the city as a public works project or by a developer or other private party in conjunction with development, the following shall be required:

(1) In all new local streets and alleys serving or abutting residential development, a minimum of two two-inch conduit with pull box every 600 feet or less (and at every 90-degree turn) shall be installed by the party constructing the street or alley.

(2) In all new collector or arterial streets serving or abutting residential development, and in all new streets and alleys serving or abutting nonresidential development, a minimum of four two-inch conduit with pull box every 600 feet or less (and at every 90-degree turn) shall be installed by the party constructing the street or alley; provided, however, that at the discretion of the director, the number and size of the conduit and spacing of pull box may be modified to address the reasonably known plans and/or demand for broadband capacity in these locations.

(3) In addition to installing conduit, the party constructing the street or alley will be required to install such vaults and other appurtenances as may be necessary to accommodate installation and connection of broadband facilities within the conduit.

(4) All construction and installation shall be accomplished according to construction standards adopted by the city. The construction standards shall be adopted with due consideration given to existing and anticipated technologies and consistent with industry standards.

(5) All facilities installed by developers or other private parties pursuant to this section shall be conveyed and dedicated to the city with the dedication and conveyance of the public street and/or rights-of-way.

(6) All installation costs shall be the responsibility of the party constructing the public street.

(c) *Use by broadband service providers and network owners*. Whenever conduit installed or to be installed under this section is available or will become available within a newly constructed public streets or rights-of-way upon dedication, all broadband service providers or network owners thereafter locating facilities within such street, alley or rights-of-way shall be required to locate their communications lines within such conduit unless it can be demonstrated to the reasonable satisfaction of the city that such location is not technologically feasible or reasonably practicable. Conduit capacity shall be allocated to broadband service providers or network owners on a first-come, first-served basis, provided that the city may reserve capacity within such conduits for its own use; and provided further, that the director may adopt additional rules for conduit allocation in order to ensure that all broadband service providers and network owners have reasonable access to the rights-of-way and that no barriers to entry or competition result from the allocation of conduit space.

(d) *Fees*. The city reserves the right to charge reasonable fees for the use of conduit installed pursuant to this section, to the extent consistent with and as limited by federal and state laws. Any such fees shall be established by resolution or ordinance.

(Ord. No. 9, 2019, att., § 14.80.060, 3-5-2019)

Secs. 18-80--18-91. Reserved.

~~CHAPTER 6.06~~ ARTICLE III. BUILDING OR STRUCTURE MOVING PERMIT

Sec. 18-92. Building or structure moving permit.

(a) A permit is required for moving any building or structure. The fee to move each building or structure shall be set in writing annually by the city manager.

(b) The mover shall submit a policy of insurance naming the city as an additional insured in the amount set annually by the city manager in writing for all claims or causes of action made against either or both the mover or city for damages to persons or property arising from the move of a building or structure. Such policy shall be written by a company authorized to do business in the state.

(c) Each application for a permit shall be in writing to the city engineer and shall state the location of the building or structure proposed to be moved, the place to which it is to be moved, type and construction of building or structure, dimensions of building or structure and a route description over which the building or structure is proposed to be moved.

(1) The community development department shall make an investigation to determine whether or not the proposed moving of such building to the proposed location is in violation of any of the building, zoning or other ordinances of the city.

(2) The application shall be reviewed by the city engineer, who may set additional or alternate standards for the mode of power to be used, route over which the building or structure should be moved and such other details in connection with such moving as he deems in the best interest of the public's welfare.

(3) No permit shall be granted nor building or structure moved without the prior written authorization of the city engineer. The city engineer shall grant the permit only if the mover has provided complete and accurate information as required in this chapter and has obtained authorization for such move by the parties listed on the route approval application. Should the permit be denied, an appeal may be made to the public works director, who shall make the final determination.

(4) Any costs incurred by the city as a result of providing public assistance necessary to accomplish the moving of a structure and which is in excess of the moving permit fee shall be the sole responsibility of the permit holder who shall be so billed by the city. No new moving permits shall be issued where an outstanding debt to the city exists for a previous moving activity unless it is the result of a pending insurance claim.

(5) Any permit granted hereunder shall be valid for 90 days or through the designated move date, whichever is less, unless revoked.

(d) Responsibility for damage. Any person using the streets, alleys or other public ground for the purpose of moving buildings and other structures across or thereon shall be responsible for any damage done to such street, alley or public ground or any improvements situated thereon, including, without limitation, trees and other plantings, signs, utility poles and utility lines, traffic signals, curbs, sidewalks, pavement and the like. Any such person shall also be responsible for any damage caused to any private property by virtue of use of the streets, alleys and other public ground of the city for the purpose of moving such buildings or other structures.

(e) Revocation of permit. Any permit granted may be revoked by the licensing officer upon the request of the city engineer in accordance with section 8-22 or 8-23.

(Code 1994, § 6.06.010; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Secs. 18-93--18-112. Reserved.

~~CHAPTER 13.20~~ ARTICLE IV. STREET NUMBERING

Sec. 18-113. Baseline for numbering designated.

First Avenue and the continuation of the line of this street in both directions, and First Street and the continuation of the line of this street in both directions, shall constitute the baseline streets from which lines the numbering of buildings and lots situated on the streets extending from such lines on either side shall commence.

(Prior Code, § 7-3(1); Code 1994, § 13.20.010)

Sec. 18-114. Directional prefixes for streets; east.

All those portions of any and all streets extending east from First Avenue shall hereafter bear the prefix East.

(Prior Code, § 7-3(2); Code 1994, § 13.20.020)

Sec. 18-115. Directional prefixes for streets; west.

All those portions of any and all streets extending west from First Avenue shall hereafter bear no directional designation.

(Prior Code, § 7-3(3); Code 1994, § 13.20.030; Ord. No. 57, 2007, § 1, 9-4-2007)

Sec. 18-116. Directional prefixes for streets; north.

All those portions of any and all streets extending north from First Street shall hereafter bear the prefix North.

(Prior Code, § 7-3(4); Code 1994, § 13.20.040)

Sec. 18-117. Directional prefixes for streets; south.

All those portions of any and all streets extending south from First Street shall hereafter bear no directional designation.

(Prior Code, § 7-3(5); Code 1994, § 13.20.050; Ord. No. 57, 2007, § 1, 9-4-2007)

Sec. 18-118. Grid system of street addresses; order and density of numbering, generally.

The city engineer is required to prepare a uniform grid system of street addresses to include the city and an area three miles beyond the city limits. All buildings constructed or hereafter constructed facing upon any street, avenue or alley shall be assigned a number by the city engineer, beginning at the baseline streets with the number 100, wherever practical, and a number shall be assigned to each 25 feet of frontage on a street within each grid block length. The odd numbers shall be on the north and west sides of the streets, alleys and avenues and the even

numbers on the south and east sides, progressing alternately from side to side, with each hundred group beginning with 00 and 01 numbers at the grid block line.

(Prior Code, § 7-3(6)(part); Code 1994, § 13.20.060)

Sec. 18-119. Diagonal and curvilinear streets.

Diagonal and curvilinear streets shall be numbered in a manner according to their predominant line of direction, the entire length of the street considered.

(Prior Code, § 7-3(6)(part); Code 1994, § 13.20.070)

Sec. 18-120. Circle or curved streets intersecting at acute angle.

Circle or curved streets extending or departing at less than a right angle direction from another street and returning to the same street shall be treated as if they ran parallel to that street. These streets shall be consecutively numbered from beginning to end, the beginning being that point on the parallel street at the lowest numerical address.

(Prior Code, § 7-3(6)(part); Code 1994, § 13.20.080)

Sec. 18-121. Circle or U-shaped streets intersecting at right angle.

Circle or U-shaped streets extending or departing at a right-angle direction from another street for a distance of 300 feet or more and returning to the same street shall be treated like other streets running in a parallel direction and be so numbered.

(Prior Code, § 7-3(6)(part); Code 1994, § 13.20.090)

Sec. 18-122. Owner appeal of assigned numbering.

The majority of the property owners in any block may appeal, in writing (the numbering assigned by the city engineer), to the city council and the city council, by resolution, shall determine the correct numbering of such block.

(Prior Code, § 7-3(6)(part); Code 1994, § 13.20.100)

Sec. 18-123. Number required for building permit issuance.

No building permit shall be issued until a street number assignment is made by the city engineer.

(Prior Code, § 7-3(7); Code 1994, § 13.20.110)

Sec. 18-124. Maintenance of number assigned required; penalty by reference for noncompliance.

All numbers of buildings shall be maintained in a plain and legible manner upon the front part thereof, which number shall be the number assigned by the city engineer. Any owner of any buildings or person having control thereof who, upon notice by the city engineer, fails or refuses to properly number such building, upon conviction thereof, shall be punished as provided in chapter 9 of title 1 of this Code.

(Prior Code, § 7-3(8); Code 1994, § 13.20.120; Ord. No. 22, 1982, § 9(part), 5-4-1982)

Secs. 18-125--18-146. Reserved.

~~CHAPTER 13.32~~ ARTICLE V. PARADE, MEETING AND ASSEMBLY PERMITS

Sec. 18-147. Permit and conformance to terms required.

It is unlawful for any person to organize, sponsor or participate in a meeting, assembly or parade attended by ten or more persons in or upon the public streets, sidewalks or public parks within the city unless and until a permit to conduct such parade, meeting or assembly has been applied for and obtained, as provided in this chapter, and unless such event is conducted in accordance with the terms set forth in such permit.

(Prior Code, § 15-70(a); Code 1994, § 13.32.010)

Sec. 18-148. Application for permit; forms; filing deadline; contents.

Application for a permit contemplated at section 18-147 shall be made on a form prepared and made available

by the city manager. The form, filled in with the requested information and signed by at least one of the organizers of the proposed parade, meeting or assembly, shall be filed with the chief of police at least three full days, exclusive of Sundays and legal holidays, before the event for which a permit is requested. The application form may require a disclosure of the name or names of the individuals who are the principal organizers or sponsors or who are officers of any sponsoring organization; the parks, streets or sidewalks to be utilized; the date and hour of the event; the number of persons expected to participate in and attend the event; and such additional information as the city manager deems pertinent to proper police planning for the event.

(Prior Code, § 15-70(b); Code 1994, § 13.32.020)

Sec. 18-149. Action on application; deadline for decision; alternatives.

Within 24 hours following the filing of the application provided for in section 18-148, the chief of police shall either issue the permit for the time and place proposed in the application, deny the application or issue a permit for a different time, place or on conditions different than proposed in the application. The chief of police shall issue the permit for the time and place set forth in the application unless he finds that the proposed meeting, assembly or parade would likely:

(1) Conflict as to time or place with a meeting, assembly or parade for which a permit previously has been granted;

(2) Prevent the safe and orderly movement of traffic contiguous to the parade route or contiguous to the place of the meeting or assembly; or

(3) Require the diversion of so great a number of police officers in order to properly police the parade, meeting or assembly as to prevent normal police protection to the city, considering all available police personnel.

(Prior Code, § 15-70(c)(part); Code 1994, § 13.32.030)

Sec. 18-150. Denial or issuance of changed permit; form and content.

If the chief of police finds that the proposed event for which a permit was applied for as provided at section 18-148 likely would cause any of the conditions specified in section 18-149, the chief of police shall deny the application or shall issue a permit for a different time or place or on conditions different than proposed in the application. All permits shall be in writing, signed by the chief of police and shall contain the names of all persons who signed the application and names of all organizations listed in the application, the type of event authorized and when and where it shall occur. All denials shall be in writing and signed by the chief of police and shall set forth the reasons for denial.

(Prior Code, § 15-70(c)(part); Code 1994, § 13.32.040)

Sec. 18-151. Appeals.

Any applicant not satisfied with the action taken by the chief of police with regard to the application made as provided at section 18-148 shall have the right to take successive appeals; first to the city manager, then to the city council and then to the municipal court, or the applicant may, if he desires, appeal directly from the chief of police to the municipal court.

(1) *Filing*. An appeal to the city manager shall be taken by filing with the city clerk a signed statement that the applicant desires to appeal to the city manager, and by filing also a copy of the application and the written denial or the permit objected to. An appeal to the city council shall be taken by filing with the city clerk copies of the application, denial or permit and, in addition, the written decision issued by the city manager and a signed statement that the applicant desires to appeal to the city council. An appeal to the municipal court shall be taken by filing all of such documents, or copies thereof, with the clerk of the municipal court together with the decision issued by the city manager and a signed statement that the applicant desires to appeal to the municipal court.

(2) *Deadlines*. Each appeal must be taken within two days, exclusive of Saturdays, Sundays and legal holidays, of the action appealed from and the city manager, city council and municipal court, respectively, shall render final decisions within two days, exclusive of Saturdays, Sundays and legal

holidays, of the filing of any such appeal.

(3) *Hearings*. A hearing shall precede a decision by either the city manager, city council or municipal court and advance notice of the hearing shall be given to the applicant and the chief of police as soon as practicable after the appeal is filed. At the hearing, the chief of police shall have the burden of justifying the denial of the application or the granting of the permit on conditions different than those proposed in the application.

(4) *Decisions*. The decision of the city manager, city council or municipal court shall be in writing and either shall affirm the action of the chief of police or shall order him to issue the permit as applied for, or for a different time or place or on conditions different than those proposed in the application. Each decision shall be communicated as soon as practicable to the applicant and the chief of police.

(5) *Further appeal*. Nothing in this section prohibits a further appeal by the applicant to the county court.

(Prior Code, § 15-70(d); Code 1994, § 13.32.050)

Secs. 18-152--18-170. Reserved.

CHAPTER 2. MISCELLANEOUS REGULATED OR PROHIBITED CONDUCT ON STREETS AND SIDEWALKS

ARTICLE I. GENERALLY

Secs. 18-171--18-193. Reserved.

~~CHAPTER 13.12~~ ARTICLE II. SNOW ON SIDEWALKS

Sec. 18-194. Sidewalks defined.

For the purposes of this chapter, the term "sidewalks" includes not only areas improved with concrete or other such material, but also areas within a street right-of-way actually used by the public as pedestrian walkways or capable of being so used, although unimproved.

(Prior Code, § 15-76(part); Code 1994, § 13.12.010)

Sec. 18-195. Snow removal duty; depositing removed snow.

It shall be the duty of all persons within the corporate limits of the city, whether owner, agent or tenant of any building, premises or vacant lot, to keep the sidewalks in front of and adjacent to the tenements and grounds occupied by them clear of snow and ice, and after any fall of snow, such persons shall remove the same from such sidewalks within 24 hours after the termination of each such snowfall. It is unlawful for any person to drag, shovel or deposit any snow that has been removed from private property upon any street, gutter or sidewalk or upon any other public ground or place in the city. Failure to comply with this section shall ~~constitute a code infraction and shall~~ be a violation subject to the sanctions set forth in chapter 10 of title 1 of this Code.

(Prior Code, § 15-76(part); Code 1994, § 13.12.020; Ord. No. 9, 2007, § 1, 3-6-2007)

Sec. 18-196. Abatement by city.

(a) If any person fails to comply with section 18-195, the ~~administrative authority~~ city manager or designee may abate the ~~infraction~~ property after providing notice to the owner, agent or tenant.

(1) Notice pursuant to this section shall be deemed effective upon personal delivery or posting the property where the snow is to be removed.

(b) The property may be abated by an employee of the city or by a private individual or firm contracted by the city. The city may charge the reasonable cost of abatement to such owner, tenant or agent, together with an additional $50.00 plus 20 percent for inspections and other incidentals, to cover the city's costs for performing this abatement.

(c) The individual receiving such charges shall have 14 calendar days from the date on the invoice to request a hearing on said charges. Such request for a hearing must be submitted in writing to the code ~~enforcement~~ compliance division. Such hearing will be held by the administrative hearing officer within 30 calendar days of

receiving a request for a hearing.

(Code 1994, § 13.12.025; Ord. No. 9, 2007, § 1, 3-6-2007)

Secs. 18-197--18-212. Reserved.

CHAPTER 3. MISCELLANEOUS REGULATED OR PROHIBITED CONDUCT ON STREETS AND SIDEWALKS

ARTICLE I. GENERALLY

Secs. 18-213--18-237. Reserved.

~~CHAPTER 13.24~~ ARTICLE II. OBJECTS ON WINDOWSILLS AND DANGEROUS PROJECTIONS

Sec. 18-238. Placing objects on windowsills unlawful when.

It is unlawful for any person to place any bottle, pitcher, vessel, utensil, article or thing whatsoever upon the window sill of any block or building where such window and window sill are upon the side of a block or building immediately abutting or fronting upon the sidewalk of any public street unless such window sill is guarded or protected by a wire screen or suitable device to prevent any article placed thereon from falling off.

(Prior Code, § 15-74(a); Code 1994, § 13.24.010)

Sec. 18-239. Fences, cellar guards or window guards; pointed or sharp metal projections unlawful.

It is unlawful for any person to put upon, keep or maintain any barb, barbed wire or sharpened nails or any other pointed or sharpened thing of metallic substance, upon any fence, cellar guard or window guard that may front upon and that may be erected or constructed upon any street, avenue, lane, alley, building or sidewalk so that the same shall project or extend beyond the surface of the wood or other material of which such fence, cellar guard or window guard may be constructed.

(Prior Code, § 15-74(b); Code 1994, § 13.24.020)

Secs. 18-240--18-258. Reserved.

~~CHAPTER 13.28~~ 24ARTICLE III. STREET VENDORS

Sec. 18-259. Sale of goods in public places prohibited; exceptions.

Except under special contract with the city, no person shall use the streets, sidewalks, parks or parkways for the storage, display or sale of goods, wares or merchandise or place or permit portable display signs on streets, sidewalks, parks or parkways. The prohibitions of this section shall not apply to any person who has been granted a special permit by the director of finance authorizing such activity. The special permit shall be issued by the director of finance if all applicable fees required by chapter 1 of title 8 of this Code have been paid and if the applicant desires to carry on such activity in conjunction with or directly because of a special event or celebration, such as the celebration of a major holiday or a local merchants' day. No permit shall authorize the activity for more than one day or event, and all such permits shall be in writing and shall specify the location within the city where such activity may be carried out.

(Prior Code, § 15-75; Code 1994, § 13.28.010)

Secs. 18-260--18-286. Reserved.

~~CHAPTER 13.36~~ ARTICLE IV. SPITTING

Sec. 18-287. Spitting unlawful; prohibition includes walks and steps.

It is unlawful for any person to spit saliva, tobacco spit, quid or other nauseous substances upon any sidewalk or in or upon any floor or hallway of any church building, school building, county or city building or public hall, or any of the walks or steps leading to any such building.

(Prior Code, § 15-89; Code 1994, § 13.36.010)

Secs. 18-288--18-302. Reserved.

CHAPTER ~~13.40~~ 4. PARKS

Sec. 18-303. Administration of public parks.

The construction, development, planning, operation and maintenance of public parks in the city (city parks) shall be under the administration of the director of culture, parks and recreation.

(Code 1994, § 13.40.010; Ord. No. 66, 1992, § 2(part), 8-4-1992; Ord. No. 05, 2010, § 1, 3-23-2010; Ord. No. 31, 2012, § 2, 8-7-2012; Ord. No. 8, 2019, exh. A, § 13.40.010, 2-19-2019)

Sec. 18-304. Closed hours.

All city parks shall be closed to the public between the hours of 11:00 p.m. and 5:00 a.m.

(Code 1994, § 13.40.020; Ord. No. 66, 1992, § 2(part), 8-4-1992; Ord. No. 8, 2012, § 1, 3-6-2012; Ord. No. 8, 2019, exh. A, § 13.40.020, 2-19-2019)

Sec. 18-305. Posting notices.

The director of culture, parks and recreation shall post notices in conspicuous places in city parks, sufficient to inform the public of the closing hours of the parks.

(Code 1994, § 13.40.030; Ord. No. 66, 1992, § 2(part), 8-4-1992; Ord. No. 05, 2010, § 1, 3-23-2010; Ord. No. 31, 2012, § 2, 8-7-2012; Ord. No. 8, 2019, exh. A, § 13.40.030, 2-19-2019)

Sec. 18-306. Violation unlawful; exceptions.

It is unlawful for any person to be within a city park at a time when the park is closed to the public unless travel on streets therein is necessary for through traffic and for those residing in areas adjoining the parks or during events of a public nature for which a permit has been previously granted. This prohibition shall not extend to persons employed within the parks or to persons who have obtained written permission from the director of culture, parks and recreation for entry into the parks during closed hours.

(Code 1994, § 13.40.040; Ord. No. 66, 1992, § 2(part), 8-4-1992; Ord. No. 05, 2010, § 1, 3-23-2010; Ord. No. 8, 2012, § 1, 3-6-2012; Ord. No. 31, 2012, § 2, 8-7-2012; Ord. No. 8, 2019, exh. A, § 13.40.040, 2-19-2019)

Sec. 18-307. Vandalism and interference with facilities or vegetation unlawful.

It is unlawful for a person to injure, damage, remove, deface or destroy city park facility, tree, shrub, vine, flower or other property in a city park, or to commit any act of vandalism therein. Violation of this section shall be treated as a misdemeanor infraction.

(Code 1994, § 13.40.050; Ord. No. 66, 1992, § 2(part), 8-4-1992; Ord. No. 8, 2019, exh. A, § 13.40.050, 2-19-2019)

Sec. 18-308. Glass beverage containers prohibited in parks.

It is unlawful for a person to bring, or have in his possession, any glass beverage container in a city park.

(Code 1994, § 13.40.055; Ord. No. 19, 1993, § 1, 4-20-1993; Ord. No. 8, 2019, exh. A, § 13.40.055, 2-19-2019)

Sec. 18-309. Orderly conduct required; certain behavior prohibited.

Any person making use of a city park shall at all times conduct themselves in an orderly manner and shall not make or create any noise emitted at levels prohibited by section 12-325. Violation of this section shall be treated as a misdemeanor infraction. Smoking is prohibited by article IV of chapter 2 of title 12 of this Code.

(Code 1994, § 13.40.060; Ord. No. 66, 1992, § 2(part), 8-4-1992; Ord. No. 8, 2019, exh. A, § 13.40.060, 2-19-2019)

Sec. 18-310. Authority.

(a) The director of culture, parks and recreation shall have authority to enforce rules and regulations promulgated for the proper management, operation and control of city parks, parkways and other recreational facilities within the city, as well as rules and regulations adopted by the city council which affect city parks.

(b) Notices of applicable rules and regulations shall be posted in conspicuous places in city parks, parkways and other recreational facilities giving notice of the proscribed behavior.

(c) It is unlawful to engage in posted, proscribed behavior and violation of this section shall be treated as a misdemeanor infraction.

(Code 1994, § 13.40.070; Ord. No. 66, 1992, § 2(part), 8-4-1992; Ord. No. 05, 2010, § 1, 3-23-2010; Ord. No. 31, 2012, § 2, 8-7-2012; Ord. No. 8, 2019, exh. A, § 13.40.070, 2-19-2019)

Sec. 18-311. Golf course enterprise fund; use of monies.

All monies accumulated in the golf fund heretofore established shall be used for the purchase, construction and maintenance of clubhouse grounds, clubhouse buildings and the interior furnishing of the clubhouse building, and for improvements to and the maintenance of the golf course and related recreational facilities at the municipal golf courses. All gifts received by the city from a donor who expresses the desire that the gift be used for golf course and golf clubhouse purposes, and all assessments, fees or charges made for golf course or golf clubhouse purposes, shall be credited to the above-mentioned fund.

(Code 1994, § 13.40.080; Ord. No. 66, 1992, § 2(part), 8-4-1992; Ord. No. 8, 2019, exh. A, § 13.40.080, 2-19-2019)

Sec. 18-312. Boating.

(a) Except where notice is posted prohibiting boating, it is permitted to bring into or operate a boat, raft or watercraft, whether motor-powered or not, upon any water owned or controlled by the city.

(b) It shall be unlawful for any person to navigate, direct or handle any boat in such a manner as to annoy, frighten or endanger the occupants of any other boat, wildlife, or other users of the water, or to operate such boat in a reckless or careless manner.

(Code 1994, § 13.40.090; Ord. No. 8, 2012, § 2, 3-6-2012; Ord. No. 8, 2019, exh. A, § 13.40.090, 2-19-2019)

Secs. 18-313--18-324. Reserved.

CHAPTER 5. TREES IN RIGHTS-OF-WAY AND PUBLIC PLACES

~~Chapter 13.41 Tree Trimmers *~~

~~***Editor's note**—Ord. 37, 2016, § 1(exh. A), adopted Dec. 20, 2016, amended Ch. 13.41 in its entirety to read as herein set out. Former Ch. 13.41, §§ 13.41.010—13.41.070, pertained to similar subject matter, and derived from Ord. 25, 2015 , § 2(Exh. A), 7-21-2015; Ord. No. 30, 2012, § 3.~~

ARTICLE I. GENERALLY

Sec. 18-325. Definitions.

For the purposes of this chapter, the following words, terms and phrases shall have the meanings defined as follows:

Parkways means that portion of a street or highway right-of-way, not paved or otherwise set apart for vehicular use, which abuts on the owner's property.

Shrub means a woody plant which consists of a number of small stems from the ground or small branches near the ground and which may be deciduous or evergreen.

Tree means a large woody plant having one or several self-supporting stems or trunks and numerous branches and which may be deciduous or evergreen.

Vegetation means the plant life in the region, including shrubs and plants, but not including trees.

(Code 1994, § 13.42.010; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-326. Permit required for trimming or removal in parkway or public right-of-way.

No tree trimmer shall remove or trim any tree in a parkway ~~as defined in section 18.42.030~~ or in a public right-of-way without first obtaining a permit from the city manager or his designee, and paying the fees required.

(1) The city manager or his designee shall not issue a permit unless the tree to be removed or trimmed is dead or interferes with the proper use of parkways for sidewalk purposes or creates traffic hazards.

(2) No tree shall be removed until the tree has been posted for at least seven days with a sign notifying the public of the contemplated removal unless otherwise deemed an emergency by the city manager or his designee.

(3) All tree stumps shall be properly removed or ground to a minimum of six inches below normal ground level. Any remaining cavity resulting from such excavation shall be properly filled and compacted with quality soil to normal ground level.

(Code 1994, § 13.41.030; Ord. No. 37, 2016, § 1(exh. A), 12-20-2016)

Sec. 18-327. Right to use streets and alleys.

A tree trimmer operating under a permit may use and occupy for temporary periods of time alleys and the one-third portion of street roadways adjacent to the parkways where the trimming work is being carried on.

(Code 1994, § 13.41.040; Ord. No. 37, 2016, § 1(exh. A), 12-20-2016)

~~Chapter 13.42 Trees and Vegetation~~

Sec. 18-328. Traffic hazard or sidewalk-interfering vegetation; removal.

It shall be the duty of all owners or persons in possession of property within the city to remove from the parkways, or cause to be removed from parkways, any and all trees, boughs and vegetation which, in the opinion of the city manager or his designee, interfere with the proper use of the parkways, overhang any sidewalks lower than eight feet or overhang any streets lower than 13 feet from the surfaces thereof, or create a traffic hazard.

(Code 1994, § 13.42.060; Ord. No. 30, 2012, § 4, 8-7-2012; Ord. No. 25, 2015, § 2(exh. B), 7-21-2015)

Sec. 18-329. Parkway tree or shrub trimming and care.

It shall be the duty of all owners or persons in possession of property within the city to trim and care for any trees or shrubs in the parkway, whether or not planted by the owner or person in possession; the trimming of trees required by this section shall be done under the supervision of the city manager or his designee. Trimming and maintenance of shrubbery within the parkway shall be done in accordance with section 24-1143.

(Code 1994, § 13.42.130; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-330. Parkway tree placement according to provisions.

It shall be the duty of all owners or persons in possession of property within the city to refrain from planting trees in parkways unless the trees planted are at least 35 feet apart in the case of shade trees and at least 25 feet apart in the case of ornamental trees and unless such trees are in line with each other and with trees previously planted in the parkway. The foregoing provisions shall apply to trees voluntarily planted by the owner as well as to planting ordered by the city council.

(Code 1994, § 13.42.140; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-331. Parkway tree removal or trimming; licensed trimmer and permit required.

It shall be the duty of all owners or persons in possession of property within the city to refrain from removing or trimming trees in parkways unless such removal or trimming is to be done by a licensed tree trimmer who has obtained a permit from the city for such removal or trimming.

(Code 1994, § 13.42.160; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-332. Trees planted near intersections.

It shall be the duty of all owners or persons in possession of property within the city to refrain from planting trees within 25 feet of the corner of any street intersection as defined in the description of clear vision zone of a corner lot in section 24-579.

(Code 1994, § 13.42.180; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-333. Clearance from curb or right-of-way of trees or woody plants.

It shall be the duty of all owners or persons in possession of property within the city to refrain from planting trees or woody plants within five feet of the back of the curb or, in the absence of a curb, to refrain from planting on any portion of the right-of-way, until such time as curbing is installed.

(Code 1994, § 13.42.190; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-334. Promulgating rules and regulations.

The city manager or his designee shall have authority to promulgate rules, regulations and specifications regarding planting, trimming, removing and spraying trees and woody plants on public rights-of-way in the city and regarding prohibiting specific types of trees and vegetation within the city. It is also the responsibility of the city manager or his designee to hear all appeals of this chapter unless a notice of violation is issued regarding the violation of this chapter.

(Code 1994, § 13.42.240; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-335. Planting trees or woody plants on right-of-way; permit required.

No one shall plant trees or woody plants on the public right-of-way without a tree planting permit. Such permit may be obtained from the office of the director of community development or his designee.

(Code 1994, § 13.42.250; Ord. No. 30, 2012, § 4, 8-7-2012)

Secs. 18-336--18-350. Reserved.

ARTICLE II. VIOLATIONS AND ENFORCEMENT

Sec. 18-351. Enforcement; administrative procedure.

(a) The enforcement of this chapter shall be carried out by the city manager or his designee. It shall be the duty of the city manager or his designee to perform such acts as are reasonably required to carry out and enforce the provisions of this chapter.

(b) Any violation of any provision of this chapter shall be a ~~Code infraction and shall be~~ violation enforced through the administrative procedure set out in chapters 10 of title 1 of this Code and chapter 12 of title 2 of this Code.

(Code 1994, § 13.42.020; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-352. Notice and correction.

It shall be the duty of the city manager or his designee to notify the owner or other persons in possession of the premises where such conditions exist as are described in this chapter, and to direct the owner or other person in possession to eradicate, remove, destroy and otherwise correct the condition described in the notice, within the time set forth in the notice.

(Code 1994, § 13.42.040; Ord. No. 30, 2012, § 4, 8-7-2012; Ord. No. 25, 2015 , § 2(Exh. B), 7-21-2015)

Sec. 18-353. Statement of costs.

It shall be the duty of the city manager or his designee to provide the director of finance with a statement of the costs incurred by the city in correcting any such conditions which the owners or other persons in possession fail to correct in order to enable the director of finance to prepare the assessments provided for in sections 18-357, 18-358 and 18-359.

(Code 1994, § 13.42.070; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-354. Compliance with notices.

It shall be the duty of all owners or persons in possession of property within the city to comply with the directions of the city manager or his designee contained in a notice sent pursuant to sections 18-352 and 18-328, within the time stated in the notice and in the manner directed therein.

(Code 1994, § 13.42.110; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-355. Payment of city correction costs.

It shall be the duty of all owners or persons in possession of property within the city to pay to the city any and all amounts incurred by the city in correcting the conditions described in a notice sent by the city manager or his designee, such payment to be made within the time specified in the assessment notice issued pursuant to sections 18-357, 18-358 and 18-359.

(Code 1994, § 13.42.120; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-356. No interference with city staff.

It shall be the duty of all owners or persons in possession of property within the city to refrain from interfering with the performance by city staff, including, but not limited to, forestry staff or code enforcement officers, of the duties set forth in this chapter.

(Code 1994, § 13.42.150; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-357. Failure to comply; penalty.

Failure by any property owner or person in possession of property to comply with the duties imposed in any provision of this chapter, within the times and in the manner provided therein, shall constitute a Code ~~infraction~~ violation and shall be subject to the penalties provided in chapter 10 of title 1 of this Code.

(Code 1994, § 13.42.200; Ord. No. 30, 2012, § 4, 8-7-2012)

Sec. 18-358. Assessment for expenses; lien and enforcement.

If the city incurs expenses and costs by reason of providing services or causing services to be provided and providing materials or causing materials to be provided, such total costs and expense shall be set forth in a written assessment notice to be prepared by the director of finance and to be mailed by him to the owner or person in possession whose duty it is to provide such services and materials. All such assessment notices shall declare that the full amount is immediately due and payable. Failure to pay any such assessment within such period of 30 days shall cause such assessment to become a lien against the lot, block or parcel of land owned or occupied by the person to whom the assessment notice was mailed, and such lien shall have priority over all other liens, except the general taxes and prior special assessments and the same may be certified at any time after such failure to so pay the same within 30 days, by the director of finance to the county treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by state law.

(Code 1994, § 13.42.210; Ord. No. 30, 2012, § 4, 8-7-2012; Ord. No. 25, 2015, § 2(exh. B), 7-21-2015)

Sec. 18-359. Civil suit for collection.

The city may bring civil suit against the owner or person in possession for the assessment or the unpaid portion thereof, described at section 18-358, at any time after a 30-day period. This remedy shall be in addition to and an alternative to any other remedy available in this chapter or pursuant to law.

(Code 1994, § 13.42.220; Ord. No. 30, 2012, § 4, 8-7-2012)

Secs. 18-360--18-378. Reserved.

CHAPTER 6. LOCAL IMPROVEMENT DISTRICTS

Sec. 18-379. Authority of city council to create local improvement districts.

(a) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Construction means those projects which involve completely new construction and the addition to the city's inventory of a new physical asset that meets current standard requirements.

Enhancement. Enhanced construction are those projects which involve the upgrading or expansion of existing facilities to meet current standard requirements.

Owner, in reference to petitions, means only persons in whom the record fee title is vested, although subject to lien or encumbrance.

Property means all land, whether platted or unplatted, regardless of improvements thereon and regardless of lot or land lines. Lots may be designated in accordance with any recorded map or plat thereof, untitled lands by any definite description thereof, and franchises by name of the corporation owing the same.

Reconstruction means the replacement of an existing facility originally constructed to previous standards and for which the city already has an ongoing maintenance responsibility.

(b) *Exclusions*. The enhancement or reconstruction of arterial and collector streets shall be excluded from the use of local improvement districts as set forth in subsection (d) of this section, except as provided by subsection (c) of this section.

(c) *Exceptions; owner consent*. Notwithstanding the provisions of the foregoing subsection (b), the city may enhance, maintain or reconstruct arterial or collector streets through the use of local improvement districts if the city receives a written request from owners of the property which would be assessed more than 50 percent of the cost of the improvements contained within the local improvement district. The written request must be received by the city prior to the city council enactment of an ordinance for the creation of a local improvement district. City-owned property shall not be eligible for inclusion in the total assessable property calculation.

(d) *District creation.*

(1) *Creation*. The city council, on its own initiative or by property owner petition, shall have the authority to create local improvement districts for making improvements of a special nature. The district may include construction, enhancement or reconstruction, maintenance, widening, surfacing and resurfacing streets and alleys; constructing, enhancement or reconstruction or maintenance of sidewalks, bike paths, curbs, gutters, or other transportation infrastructure; extending, constructing, enhancing, maintaining or reconstructing water, sewer, or stormwater infrastructure; setting apart portions of street or alley rights-of-way for use as pedestrian malls; creating parks; construction, enhancement, maintenance or reconstruction of off-street parking facilities; and landscaping of nontraveled portions of street and alley rights-of-way.

(2) *Council authority*. The above reference to specific types of local improvements shall not limit the authority of the city council to create improvement districts for other types of improvements which confer special benefits on property within those improvement districts in addition to the general benefits conferred to the city at-large.

(3) *Allocation*. In order to provide the city council with the information necessary to make an equitable decision, at the city council's discretion, the proper signatories on a petition for formation of a local improvement district shall be one or more of the following:

a. Property owners with each individual person or entity being permitted to sign said petition no more than one time regardless of quantity or extent of property contained within the district;

b. Property owners with each individual person or entity being allowed to sign the petition one time for each acre contained within the proposed local improvement district of which they are the owner;

c. Property owners (who for the purposes of petition and this subsubsection shall be considered those individual persons who make their primary dwelling place within the district) will be permitted to sign said petition no more than one time; and/or

d. Property owners who have designated or delegated their privilege of signing the petition to a particular individual or entity who is the tenant of that property at the time of petition.

(Prior Code, § 19-21; Code 1994, § 13.44.010; Ord. No. 33, 1982, § 2, 6-15-1982; Ord. No. 2, 1985, § 1, 1-22-1985; Ord. No. 56, 1985, § 1, 6-4-1985; Ord. No. 15, 1993, § 1(part), 3-6-1993; Ord. No. 75, 2001, §§ 1--4, 9-18-2001; Ord. No. 15, 2020, exh. A, § 13.44.010, 7-7-2020)

Sec. 18-380. Power of city council to issue bonds.

Unless otherwise specifically provided by city Charter or other applicable law, the city council shall have the

power to issue special or local improvement district bonds. Those bond obligations shall be issued without the necessity of an additional vote of the general electors and shall not be included when determining the power of the city to incur additional indebtedness, where said bonds are secured by property benefited by any special or local improvement district. Assessments of properties specially benefited by an improvement district are authorized.

(Code 1994, § 13.44.015; Ord. No. 39, 1993, § 2, 9-7-1993)

Sec. 18-381. Petitions by property owners; city council to consider.

The city council shall not be required to create local improvement districts upon the petition of property owners, but in exercising its judgment on the question of creating local improvement districts, the city council shall consider the desires of real property owners as expressed by petition, along with other pertinent factors.

(Prior Code, § 19-22; Code 1994, § 13.44.020)

Sec. 18-382. Property included; certain conventional improvement districts.

Local improvement districts created for constructing, widening, surfacing, maintaining or otherwise improving streets or alleys, constructing, reconstructing, surfacing, maintaining or otherwise improving sidewalks, bike paths, curbs, gutters, or other transportation infrastructure, or extending or constructing water, sewer, or stormwater infrastructure, shall consist of the lots and lands abutting on the right-of-way to be so improved or in which such infrastructure is to be installed, or the lots and lands which the city council determines will be specially benefitted by such improvements. In the case of street, alley, water, sewer, or stormwater infrastructure improvements, this may include lots and lands abutting or otherwise located on both sides of the street, avenue or right-of-way which is to be improved or in which the infrastructure is to be installed. In the case of sidewalks, bike paths, curbs, gutters, or other transportation infrastructure, the lands and lots to be included shall be those abutting on that side of the street or avenue right-of-way along which the sidewalk, bike path, curb, gutter, or other infrastructure is to be constructed. However, notwithstanding the foregoing provisions of this section, any local improvement district created for constructing, widening, surfacing or otherwise improving streets or alleys, or constructing, reconstructing, surfacing or otherwise improving sidewalks, bike paths or curbs and gutters (including, without limitation, landscaping improvements and improvements consisting of or modifying streets or alleys for use primarily as pedestrian malls or parking areas), which local improvements are to be located within the Greeley General Improvement District No. 1, created by Ordinance No. 26, 1968, shall consist of lands or lots comprising an area which the city council determines will be specially benefited by such local improvements, regardless of whether such lands or lots abut on the right-of-way along which such improvements are to be constructed.

(Prior Code, § 19-23(a); Code 1994, § 13.44.030; Ord. No. 20, 1982, § 2, 4-6-1982; Ord. No. 90, 1982, § 2, 12-21-1982; Ord. No. 75, 2001, § 5, 9-18-2001; Ord. No. 15, 2020, exh. A, § 13.44.030, 7-7-2020)

Sec. 18-383. Other local improvements.

Improvement districts created for making other local improvements shall consist of lands or lots comprising an area which the city council determines will be specially benefited by such local improvements.

(Prior Code, § 19-23(b); Code 1994, § 13.44.040)

Sec. 18-384. Assessment of costs; certain improvement districts.

In the case of those local improvements described in section 18-382, the cost of such improvement or such part thereof as may be assessed against the property specially benefited, including the intersections of streets and alleys, may be assessed on land included in the improvement district created for such improvements, on a frontage, zone or other equitable basis, in accordance with the benefits to that land as the same may be determined by the city council.

(Prior Code, § 19-24(a); Code 1994, § 13.44.050)

Sec. 18-385. Other local improvements.

The cost of making other local improvements shall be assessed against the lot and lands included in the improvement district created for any such other improvements, proportionately on the basis of land or lot area. The city council may subdivide any local improvement district referred to in this section into one or more divisions and provide that the lots and lands within each particular division bear a proportionately greater share of the total cost

than the other division or divisions within such improvement district, according to the extent of special benefit conferred.

(Prior Code, § 19-24(b); Code 1994, § 13.44.060)

Sec. 18-386. Assessment of costs.

Nothing in this chapter shall prevent the city council from determining that a portion of the costs of any local improvement shall be paid from the general property and/or food sales tax revenues of the city to the extent that any portion of a local improvement confers a general benefit upon the city at-large or a special benefit upon property owned by the city.

(Prior Code, § 19-24(c); Code 1994, § 13.44.070; Ord. No. 15, 1993, § 1(part), 3-6-1993)

Sec. 18-387. Scope of costs included.

The cost of a local improvement which is to be assessed, or a portion of which is to be assessed, against the lots and lands in a local improvement district shall include not only the cost of labor and materials involved in making the improvement, but also shall include the expense of engineering, inspection, advertisement, abstracting, publishing, postage, collection and any other incidental costs directly related to the creation of the improvement district and the making of assessments thereunder.

(Prior Code, § 19-24(d); Code 1994, § 13.44.080)

Sec. 18-388. Ordinances establishing districts.

(a) If the city council desires to provide for local improvement pursuant to this chapter, it shall adopt an ordinance creating an improvement district for that purpose. Immediately following the first reading of the proposed ordinance, the city council shall schedule a public hearing, to take place no sooner than 12 days from the first reading.

(b) The creating ordinance shall set forth, insofar as possible, a description of the type of improvement proposed, the maximum cost of the improvement or the maximum unit cost (which maximum cost or maximum unit cost shall be inclusive of incidental costs), the legal descriptions of the lands and lots to be included in the improvement district, and the names and addresses of the apparent owners of such lands or lots.

(Prior Code, § 19-25(a); Code 1994, § 13.44.090; Ord. No. 20, 1982, § 4, 4-6-1982; Ord. No. 90, 1982, § 4, 12-21-1982; Ord. No. 15, 1993, § 1(part), 3-6-1993)

Sec. 18-389. Public hearing; notice.

Notice of public hearing scheduled as provided at section 18-388 shall be given by virtue of publication of the proposed creating ordinance as required by the city Charter. In addition, the city clerk shall mail a notice, at least seven days before the public hearing, to each person named in the proposed ordinance to the address shown therein. The notice shall be mailed by certified mail and shall set forth the time and place of the public hearing, where the maximum cost or unit cost will be assessed against the addressee's property. The notice further shall invite the addressee to attend the public hearing and shall inform the addressee that failure to do so may prejudice the addressee's rights. The notice shall be published once in a newspaper of general circulation in the city at least 11 days before the public hearing.

(Prior Code, § 19-25(b); Code 1994, § 13.44.100; Ord. No. 40, 1981, § 2, 5-19-1981; Ord. No. 90, 1982, § 6, 12-21-1982; Ord. No. 15, 1993, § 1(part), 3-6-1993)

Sec. 18-390. City council action on ordinance.

At the public hearing provided for at section 18-388, the city council shall consider all petitions, evidence and arguments pertaining generally to whether the proposed local improvement is necessary or advisable. The city council shall thereupon reject the proposed ordinance or finally adopt it.

(Prior Code, § 19-25(c); Code 1994, § 13.44.110)

Sec. 18-391. Commencement of construction.

(a) After final passage of the ordinance creating the improvement district, the city shall make such

improvement or authorize it to be done. Construction of the improvement or other steps necessary to create it, shall commence within a reasonable time after such final passage.

(b) Construction of sidewalks, bike paths or curbs and gutters shall not be commenced for a period of 30 days following the final passage of the ordinance. During that time, any owner of lands or lots included in the improvement district may deliver to the city engineer a signed and dated statement expressing the landowner's intention to construct or have constructed that portion of the sidewalk, bike path or curb and gutter which will abut on his property. Upon filing such statement, the landowner shall have the right and duty to construct or have constructed at his sole expense that portion of the sidewalk, bike path or curb and gutter, provided that the construction shall be completed within a reasonable time and shall be completed in strict conformity to the specifications contained in article I of chapter 1 of this title.

(c) The provisions of subsection (b) of this section shall not apply to any local improvement district which is located within the Greeley General Improvement District No. 1, created by Ord. No. 26, 1968.

(Prior Code, § 19-26; Code 1994, § 13.44.120; Ord. No. 20, 1982, § 6, 4-6-1982)

Sec. 18-392. Assessment procedure and assessment ordinance.

Upon completion of the local improvement (or upon substantial completion if the costs are then known), the city engineer shall prepare a report of the costs thereof including the incidental expenses referred to in section 18-387. The report also shall recommend the cost, if any, to be charged against the revenues of the city, shall recommend the proposed allocation of the costs among the lands and lots in the improvement district and, if applicable, shall contain a recommendation as to the life expectancy for paving on streets, avenues and alleys along with a summary of data upon which such recommendation is based. Such report shall be presented to the city council at a regular meeting, and the city council shall thereafter pass on first reading an assessment ordinance.

(Prior Code, § 19-27(a); Code 1994, § 13.44.130; Ord. No. 90, 1982, § 8, 12-21-1982)

Sec. 18-393. Assessment ordinance contents.

The assessment ordinance provided for at section 18-392 shall set forth a description of the improvement, the total cost thereof and a separate statement of the total incidental costs, a description of the lots and lands included in the improvement district, the names of the apparent owners of such lands and lots and the amount being assessed against each lot or parcel of land in the improvement district. The assessment ordinance also shall set forth when such assessments are due and payable, the rate of interest to be charged thereon and, if applicable, the life expectancy, as determined by the city council, for the paving on any street, avenue or alley.

(Prior Code, § 19-27(b); Code 1994, § 13.44.140)

Sec. 18-394. Public hearing; scheduling and notice.

At the time of passing the assessment ordinance on first reading, the city council shall schedule a public hearing to take place no sooner than 28 days thereafter. Notice of the public hearing shall be given by virtue of publication of the proposed assessment ordinance as required by the city Charter. In addition, at least 14 days before the public hearing, the city clerk shall mail to each person named in the proposed assessment ordinance a copy thereof together with a notice of the time and place of the public hearing. The notice shall be mailed by certified mail to the apparent owners of such lands and lots named in the proposed assessment ordinance. The notice further shall invite the addressee to attend the public hearing and shall inform him that failure to do so may prejudice his rights. Such notice also shall be published two times in a newspaper of general circulation in the city, the first time at least 20 days before the public hearing and the second time at least seven days before the public hearing.

(Prior Code, § 19-27(c); Code 1994, § 13.44.150; Ord. No. 40, 1981, § 4, 5-19-1981)

Sec. 18-395. Adjustments; passage or introduction of ordinance or resolution.

At the public hearing provided for at section 18-394, the city council shall consider all complaints and objections as to the proposed assessment ordinance and shall make such adjustments as are necessary to carry out the purpose and requirements of this chapter. Thereupon, the assessment ordinance shall be passed on final reading or, if necessary to reflect the adjustments, a new assessment ordinance or resolution shall be introduced. In the latter event, no additional notice shall be required. Nothing herein shall prevent the city council from finally passing the

assessment ordinance initially proposed and thereafter accomplishing the required adjustments by a supplemental assessment ordinance or resolution.

(Prior Code, § 19-27(d); Code 1994, § 13.44.160)

Sec. 18-396. Lien status of assessments.

All assessments made in substantial compliance with this chapter shall constitute, from the effective date of the assessment ordinance, a perpetual lien in the amounts assessed against real property described in the assessment ordinance and shall have priority over all other liens except prior tax or assessment liens. The lien of any assessment finally fixed by a supplemental assessment ordinance or resolution, as provided for in section 18-395, shall relate back to the effective date of the assessment ordinance so supplemented.

(Prior Code, § 19-27(e); Code 1994, § 13.44.170)

Sec. 18-397. Payment schedule for assessments; interest; unpaid assessments.

(a) Each assessment may be paid in either annual or semiannual installments of principal as specified in the assessment ordinance and may be paid over the number of years specified in the assessment ordinance, with interest on the unpaid principal payable annually or semiannually. The dates and amounts of such annual or semiannual payments shall be as specified in the assessment ordinance. The entire assessment or the full balance thereof remaining after the payment of one or more annual or semiannual installments may, at the option of the property owner, be paid at any one installment payment date.

(b) All assessments shall bear interest at a rate to be determined by the city council and set forth in the assessment ordinance. The rate shall be reflective of the then prevailing interest rates on local or special improvement district bonds issued to finance comparable improvements, but in any event shall be at least equal to the highest coupon rate of interest on any local or special improvement district bonds issued to finance the particular improvements for which the assessments are being levied. Interest, at the rate so established, shall be charged against the unpaid portion of each assessment from the effective date of the assessment ordinance or from such later date as the city council may designate, to the time when the assessment is fully paid; provided, however, that cash payments or assessments, without interest, may be made within 30 days after the effective date of the assessment ordinance.

(c) If any required assessment payment is not made when due, the whole amount of the unpaid principal of the assessment shall become due and payable immediately and the director of finance shall immediately certify such amount, together with all accrued interest thereon and a ten-percent collection charge, to the county treasurer for collection as provided by law; provided, however, that at any time prior to sale of the property, the owner may pay the amount of all delinquent assessment installment payments, together with all accrued interest and the ten-percent collection charge thereon, and any other penalties and costs of collection, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been made.

(Prior Code, §19-28(a); Code 1994, § 13.44.180; Ord. No. 20, 1982, § 8, 4-6-1982; Ord. No. 13, 1983, § 2, 2-15-1983)

Sec. 18-398. Deferral of improvement district assessments.

(a) Property owner assessment must exceed $2,500.00 to be eligible to apply for a deferral of the assessment fee. The principal amount only shall be eligible for deferral. The interest on the assessment must be paid annually.

(b) The following criteria must be met in order to apply for deferral of the fee from development of an improvement district:

(1) The property must be: a single-family residence; owner-occupied; the principal residence of the owner; and owned by the property owner for a minimum of two years prior to the creation of the improvement district;

(2) The property owner's total family income must be at or below 150 percent of the then-current federal food stamp program income limits based on the number of qualifying* family members. Income qualification consists of:

a. Wages, salaries, tips, etc.

b. Interest income, dividends, etc.

c. Social Security income, supplemental security income.

d. Pensions, V.A. benefits, old age pension.

e. Social assistance (i.e., A.F.D.C.).

f. Other income.

*Qualifying family members are legal dependents claimed on federal income tax returns for the most recent tax year.

(c) Property owners who meet the above criteria must file an application for assessment deferral with the city within 90 days prior to the date the first payment is due. A nonrefundable, one-time fee of $25.00 shall be submitted with the application.

(d) Should the deferral application be accepted, the amount deferred shall bear interest as set forth in the assessment ordinance, and may be adjusted after expiration of the period set forth in the assessment ordinance. The adjusted interest rate shall be based on the current prime rate.

(e) Upon approval by the city of the deferral, a lien will be filed against the property with the county clerk and recorder. Said lien will be released upon payment of the deferral.

(f) The assessment may be deferred until there is a change in the use of the property, through sale or transfer of the property, death of the property owner, rezoning of the property or cessation of occupancy by the owner.

(Code 1994, § 13.44.181; Ord. No. 6, 1997, § 1, 2-4-1997)

Sec. 18-399. Recording of final assessments.

The director of finance shall record all final assessments in an assessment roll to be kept for that purpose showing the names of the landowners, the amounts assessed against such lot and lands, the dates of the assessments, the amounts paid thereon and other appropriate information.

(Prior Code, § 19-28(b); Code 1994, § 13.44.190)

Sec. 18-400. Proceeds of assessments.

All assessments collected, either directly by the city or through taxation by the county treasurer, shall be used to pay the costs of the improvement to which the assessments are applicable and to redeem or pay any warrants, bonds or other forms of indebtedness incurred by the city on account of such improvements.

(Prior Code, § 19-29; Code 1994, § 13.44.200)

Sec. 18-401. Bond issuance authorized.

(a) For the purpose of paying all or such portion of the cost of any local improvements constructed under the provisions of this chapter as may be assessed against property specially benefited, local improvement district bonds of the city may be issued, subject to any and all limitations as are contained in the city Charter.

(b) A single series of local improvement bonds may be issued with respect to one or more local improvement districts. If a series of bonds is issued with respect to two or more local improvement districts, each such district shall maintain its separate identity for the purposes of assessment pursuant to sections 18-392 through 18-396.

(Prior Code, § 19-30; Code 1994, § 13.44.210; Ord. No. 75, 1980, § 2, 10-21-1980)

Sec. 18-402. Deadline for bringing actions on districts.

No legal or equitable action shall be brought or maintained to enjoin or in any way challenge the creation of a local improvement district or the collection of assessments thereunder unless such action is brought within 30 days from the final passage of the applicable ordinance.

(Prior Code, § 19-31(a); Code 1994, § 13.44.220; Ord. No. 90, 1982, § 10, 12-21-1982)

Sec. 18-403. Deadline for bringing actions on bond issues.

No legal or equitable action shall be brought to enjoin or in any way challenge the issuance of local improvement district bonds by the city council unless such action is brought within 30 days following the final

passage of the ordinance authorizing such bonds.

(Prior Code, § 19-31(b); Code 1994, § 13.44.230)

Sec. 18-404. City may purchase and finance existing facilities.

The city council shall have the power and authority to purchase existing facilities such as those that could have been constructed and financed as local improvements pursuant to the provisions of this chapter and to finance any such purchase by creating a local improvement district and including therein the property serviced by such existing facilities.

(Prior Code, § 19-32; Code 1994, § 13.44.240)

Sec. 18-405. Repair, maintenance or reconstruction; financing.

The reconstruction or routine maintenance of a local improvement previously constructed as a local improvement may be financed pursuant to the provisions of this chapter in the same manner as initial construction. The repair of any such local improvement shall not be so financed. The city engineer shall report to the city council on the question of whether work proposed to be done is repair work or routine maintenance or is reconstruction work, giving the reasons for his determination. The final determination of the question shall rest with the city council, and such determination shall take into account the life expectancy for paving on any street, avenue and alley as set forth in the assessment ordinance applicable to the local improvement in question.

(Prior Code, § 19-33(a); Code 1994, § 13.44.250; Ord. No. 75, 2001, § 6, 9-18-2001)

Sec. 18-406. City materials may be used without cost.

In performing surfacing or graveling work on a street or alley improvement being made pursuant to this chapter, the city engineer may authorize the use of gravel or other paving materials owned by the city without including the cost of such materials in computing the total cost of the local improvement.

(Prior Code, § 19-33(b); Code 1994, § 13.44.260)

Sec. 18-407. Continuation of hearings.

Any hearing provided for under this chapter may be continued by the city council for any good reason without any additional notice being given of the time and place to which the hearing is to be continued.

(Prior Code, § 19-33(c); Code 1994, § 13.44.270)

Sec. 18-408. Construction or purchase by other means not precluded.

Nothing in this chapter shall preclude the construction of local improvements or the purchase of existing facilities in accordance with applicable provisions of state law or pursuant to private contract.

(Prior Code, § 19-33(d); Code 1994, § 13.44.280)

Sec. 18-409. Supersession of statutes.

C.R.S. title 31, article 25, parts 4 and 5 and all other statutes or portions of statutes relating to the creation of special or local improvement districts or to the levying of assessments for special or local improvements, are superseded by this chapter.

(Code 1994, § 13.44.290; Ord. No. 20, 1982, § 9, 4-6-1982)

Sec. 18-410. Authority to borrow and issue.

The city council is authorized to issue up to $5,000,000.00 for use in financing special or local improvement districts, in accordance with the city Charter. The issuance of bonds up to the total authorized shall be in accordance with the city Charter.

(Code 1994, § 13.44.300; Ord. No. 39, 1993, § 3, 9-7-1993)

Sec. 18-411. Authority to spend.

Authority is given to city council to spend the authorized borrowing in section 18-410 for use in approving special or local improvement districts over the next four years. This authority to borrow and expend proceeds from

that borrowing expires four years after the final adoption by the voters of the ordinance codified in this section.

(Code 1994, § 13.44.305; Ord. No. 39, 1993, § 4, 9-7-1993)

Title 19

RESERVED

Title 20

~~PUBLIC SERVICES~~

PUBLIC WORKS AND UTILITIES

CHAPTER 1. IN GENERAL

Secs. 20-1--20-18. Reserved.

CHAPTER 2. WATER AND SEWER ADMINISTRATION

Sec. 20-19. Enterprise, defined.

Enterprise means a government-owned business operated according to the accepted principles and procedures established by the governmental accounting standards board for an enterprise fund operation, authorized to issue its own revenue bonds and receiving under ten percent of annual revenue in grants from all state and local governments combined.

(Code 1994, § 14.04.010; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-20. Department of water and sewer established.

There is created a department of water and sewer, the director of which shall be appointed by the city manager.

(Code 1994, § 14.04.020; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-21. Responsibilities of director.

The director of water and sewer shall be responsible for the operation and maintenance of the entire water system and sanitary sewer system of the city. The director of water and sewer shall also be responsible for the care and custody of the property used by the department.

(Code 1994, § 14.04.030; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-22. Divisions established.

The department of water and sewer shall consist of a water division and a sewer division. The director shall be responsible for the activities of all divisions and perform such other duties as may be required by law or assigned by the city manager.

(Code 1994, § 14.04.040; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-23. Water enterprise established.

There is created a water enterprise of the city empowered to implement the provisions of this chapter. The city council finds that the appropriate way to establish and administer the water enterprise is as a business owned by the city and operated according to the state constitution and following the accepted principles and procedures established by the governmental accounting standards board for an enterprise fund operation.

(Code 1994, § 14.04.050; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-24. Sanitary water enterprise established.

There is created a sanitary water enterprise of the city empowered to implement the provisions of this chapter. The city council finds that the appropriate way to establish and administer the sanitary water enterprise is as a business owned by the city and operated according to the state constitution and following the accepted principles and procedures established by the governmental accounting standards board for an enterprise fund operation.

(Code 1994, § 14.04.060; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-25. Water and sewer board established; membership; meetings.

Pursuant to article 17 of the city Charter, there shall be a water and sewer board which shall consist of ten members. The mayor, city manager and director of finance shall be nonvoting members of said board. There shall be seven members appointed by the city council for terms of five years. Any vacancy shall be filled for the unexpired term of any member whose place has become vacant. The residency requirements set forth in section 2-558 shall not apply to the board. The board shall annually elect one of the appointive members as chairperson, and one as vice-chairperson. The city manager shall serve as secretary to the water and sewer board. The board shall meet at a regular day and time each month, and such meetings shall be open to the public. The board may enter into an executive session in accordance with the same guidelines as provided in section 2-151.

(Code 1994, § 14.04.070; Ord. No. 97, 1992, § 4(part), 12-8-1992; Ord. No. 18, 2002, § 1, 4-2-2002; Ord. No. 54, 2003, § 1, 8-5-2003)

Sec. 20-26. Water and sewer board authorized agent of city.

The city council, pursuant to its general authority and as stated in section 1-11 of chapter 1 of title 1 of this Code, hereby expressly authorizes the city water and sewer board to act as its agent to prosecute all actions in eminent domain for water or sewer purposes that have been authorized by the city council.

(Code 1994, § 14.04.075; Ord. No. 10, 2009, § 1, 4-21-2009)

Sec. 20-27. Duties, fees and charges.

The water and sewer board shall adopt by resolution the following rates, fees and charges:

(1) Minimum and sufficient potable water rates;

(2) Minimum and sufficient sanitary sewer rates;

(3) Cash-in-lieu fees;

(4) Raw water surcharges;

(5) Water plant investment fees;

(6) Sewer plant investment fees; and

(7) Water turn-on charges.

(Code 1994, § 14.04.080; Ord. No. 97, 1992, § 4(part), 12-8-1992; Ord. No. 39, 2019, exh. A, § 14.4.80, 9-17-2019)

Sec. 20-28. Permissible duties; fees and charges.

The water and sewer board ~~shall~~ may adopt minimum rates, fees and charges which may include, but need not be limited to, the following:

(1) Irrigation water rates;

(2) Water rental rates;

(3) Fees for inspection;

(4) Fees for testing;

(5) Fees for meter installation;

(6) Fees for engineering design review;

(7) Fees for accepting wastewater hauled to the sewage treatment plant;

(8) Lift station surcharges; and

(9) Other fees and charges as the board deems necessary to cover the costs of inspections, tap installations, operations, maintenance and extensions of the water and sanitary sewer systems.

(Code 1994, § 14.04.090; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-29. Budget setting process.

(a) *Preparation for draft budgets.* In order to prepare the annual water and sanitary sewer budgets for

recommendation to the city manager, the water and sewer board will meet with water and sewer department staff and the city finance director to review and discuss information that may impact the water and sanitary sewer budgets. The information may include, but is not limited to, the following:

(1) Current estimates of debt service requirements and depreciation costs;

(2) Actual budget figures from previous years, current year's actual/estimated expenses and revenues, and recommended and estimated revenues and expenses for future years; and

(3) a. Relevant factors affecting maintenance of current operational service levels;

a. Large rehabilitation projects that may require bonding;

b. Capital improvement projects required to meet federal or state regulations;

c. Capital improvement projects to meet court decrees;

d. New capital improvement projects to meet city council's approved long range (minimum five-year) plan and adopted comprehensive plan;

e. Adjustments in operational service levels and capital projects required to maintain operational service levels; and

f. Acquisition of additional water rights. The water and sewer board will also review and consider any other information presented by water and sewer department staff that may materially affect preparation of the budgets, including, but not limited to, growth projections; projected and actual city personnel salary adjustments and other items which may affect the operations of the water and sewer department and/or approved long range (minimum five-year) plan and adopted comprehensive plan. To the extent possible or practicable, the foregoing will be presented to the water and sewer board on or before the annual April water and sewer board meeting. After presentation to the water and sewer board, the same information shall be presented to city council, together with any recommendations by the water and sewer board for city council's consideration. To the extent possible or practicable, the foregoing will be presented to city council on or before the annual June water and sewer board meeting.

(b) *Recommended budgets.* water and sewer department staff and the finance director will prepare draft budgets and a long-range plan that considers comments or direction received from the water and sewer board or city council. The draft budgets will be presented to the water and sewer board for its review, approval, and recommendation to the city manager, as well as a draft long range (minimum five-year) plan for water and sewer capital improvement projects for the water and sewer board's review and submittal to city council. The recommended budgets will estimate the water and sewer rates necessary for all expenditures for all operation and maintenance of the water and sewer systems; all debt service requirements; and additions to a reserve account in sufficient amounts to offset depreciation to the water or sewer systems. The water and sewer recommended budgets and long range plans will also separately estimate the rates necessary for all expenditures for new water and sewer capital improvement projects and for which funds are recommended to be appropriated from the Sewer Construction Fund, Water Construction Fund, Water Rights Acquisition Fund, or other identified fund, in order to meet city council's approved long range (minimum five-year) plan and adopted comprehensive plan. city council reviews and approves the long-range plan as it deems appropriate during city council's budget setting process. To the extent possible or practicable, the foregoing will be presented to the water and sewer board on or before the annual July water and sewer board meeting.

(c) *Presentation to city council.* When the city manager presents his proposed budget to city council, any changes to the water and sewer board's recommended budgets that are not supported by both the water and sewer board and the city manager will be documented and presented to city council with supporting explanation for and against the changes. The water and sewer board will receive notice of any such changes prior to the city council budget work session scheduled to review the water and sewer budgets. The water and sewer board may then meet with city council at the city council budget work session to discuss any changes in the recommended budget, subject to all applicable open meeting laws.

(d) *Setting the rates for water and sewer.* As soon as practicable after city council adopts the city budget,

but before December 31, the board shall approve minimum water and sewer rates in accordance with section 17-4 of the city Charter. The rates adopted by the board may also include funding in order to meet city council's long-range plan and adopted comprehensive plan, and any other expenditure included in the adopted city budget as approved by city council.

(Code 1994, § 14.04.100; Ord. No. 97, 1992, § 4(part), 12-8-1992; Ord. No. 27, 2015, § 1(exh. 1), 8-18-2015)

Sec. 20-30. Other powers or duties.

Pursuant to article 17 of the city Charter and this chapter, the water and sewer board shall have the power and shall be required to:

(1) Annually establish minimum water rates, which need not be uniform for all classes of uses; the minimum rates must be sufficient to include all expenditures for the following:

a. All operation and maintenance of and additions to the water system;

b. All debt service requirements;

c. Additions to a reserve account in sufficient amounts to offset depreciation to and provide for the replacement of the water system. Said reserve shall be based on generally accepted accounting principles for a water system.

(2) Annually establish minimum sanitary sewer service rates, which need not be uniform for all classes of users; the minimum rates must be sufficient to include all expenditures for the following:

a. All operation and maintenance of and additions to the sanitary sewer system;

b. All debt service requirements;

c. Additions to a reserve account in sufficient amounts to offset depreciation to and provide for the replacement of the sanitary sewer system. Said reserve shall be based on generally accepted accounting principles for a sanitary sewer system.

(3) Acquire by purchase or, only pursuant to section 20-26, condemnation; and develop, convey, lease and protect the water and sewer assets, supplies and facilities needed to fully use the water supplies decreed, adjudicated or contracted for the city.

(4) The water and sewer board shall have the power within its budget appropriation to direct the city manager to contract with individuals or firms of the board's choosing for engineering, legal and other professional consulting services. Persons or firms providing such special consulting services may be employed on an annual retainer basis or otherwise.

(Code 1994, § 14.04.110; Ord. No. 97, 1992, § 4(part), 12-8-1992; Ord. No. 11, 2009, § 1, 4-21-2009)

Sec. 20-31. Debt issuance.

Pursuant to ~~section 17-9 of~~ the city Charter, the water and sewer board shall have the authority to issue revenue bonds, subject to approval by the city council, and excluding general obligation bonds. City council approval of the issuance of water or sanitary sewer revenue bonds is subject to referendum by petition. If at any time within 30 days after the approval by the city council of the issuance of water or sanitary sewer revenue bonds, a petition signed by qualified electors equal in number to at least ten percent of the total vote cast in the last general city election be presented to the city council protesting against the issuance of water or sanitary sewer revenue bonds, the city council's approval shall thereupon be suspended and the city council shall reconsider such approval. If that approval is not entirely repealed, the city council shall submit the same to a vote of the qualified electors of the city at a special election called therefor unless a general or special election is to occur within 180 days thereafter, in which event, the matter shall be submitted at that election. The service on all debt related to the water and sewer enterprises shall be part of the budget recommended by the water and sewer board.

(Code 1994, § 14.04.120; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-32. Water Fund established.

(a) There is established an enterprise fund, to be known as the Water Fund, in which shall be deposited all

revenues from water billing and other revenues. All funds received from the water rates shall be used only for the operation, maintenance, debt service, replacement of and additions to the water system, including the acquisition of water rights.

(b) The water enterprise may pledge all or any portion of the fund, including revenues anticipated to be collected, to the payment of principal, interest, premium, if any, and reserves for general obligation bonds, revenue bonds or any other obligations lawfully issued or otherwise contracted for by the enterprise for the payment or other financing of costs of the city water system or for the purposes of refunding any obligations issued or otherwise contracted for such purposes.

(c) All amounts on hand in such fund shall be invested by the director of finance in investments proper for public funds. All funds collected pursuant to the provisions of this chapter for operation, administration, maintenance and construction of water facilities shall be separately designated as such and shall be used solely for those purposes.

(Code 1994, § 14.04.130; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-33. Sanitary Sewer Fund established.

(a) There is established an enterprise fund, to be known as the Sanitary Sewer Fund, in which shall be deposited all revenues from sanitary sewer billing and other revenues. All funds received from the sanitary sewer rates shall be used only for the operation, maintenance, debt service, replacement and additions to the sanitary sewer system.

(b) The sanitary water enterprise may pledge all or any portion of the fund, including revenues anticipated to be collected, to the payment of principal, interest, premium, if any, and reserves for general obligation bonds, revenue bonds or any other obligations lawfully issued or otherwise contracted for by the enterprise for the payment or other financing of costs of the city sanitary sewer system or for the purpose of refunding any obligations issued or otherwise contracted for such purposes.

(c) All amounts on hand in such fund shall be invested by the director of finance in investments proper for public funds. All funds collected pursuant to the provisions of this chapter for operation, administration, maintenance and construction of sanitary sewer facilities shall be separately designated as such and shall be used solely for those purposes.

(Code 1994, § 14.04.140; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-34. Water capital replacement reserve established.

There is established a reserve, to be known as the water capital replacement reserve, which shall serve as a source of funds for capital replacement of water equipment and facilities.

(Code 1994, § 14.04.150; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-35. Sewer capital replacement reserve established.

There is established a reserve, to be known as the sewer capital replacement reserve, which shall serve as a source of funds for capital replacement of sanitary sewer equipment and facilities.

(Code 1994, § 14.04.160; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Sec. 20-36. Water acquisition reserve established.

There is established a reserve to be known as the water acquisition reserve, which shall serve as a source of funds for the purchase of water rights.

(Code 1994, § 14.04.170; Ord. No. 97, 1992, § 4(part), 12-8-1992)

Secs. 20-37--20-60. Reserved.

CHAPTER 3. WATER AND SANITARY SEWER SERVICE

ARTICLE I. GENERALLY

Sec. 20-62. Standards for design and construction.

The director of water and sewer shall adopt and publish design and construction standards for water and sanitary sewer facilities to be connected to the city system or installed within its jurisdiction. The design and construction of water and sanitary sewer mains and appurtenances shall conform to the published standards, unless deviations from those standards are approved in writing by the director of water and sewer. The city may refuse to accept facilities inadequately constructed or constructed in variance with city requirements. The city shall be held harmless for the engineer's or installer's failure to conform to city standards and specifications.

(Code 1994, § 14.04.210; Ord. No. 97, 1992, § 4(part), 12-8-1992; Ord. No. 39, 2019, exh. A, § 14.4.180, 9-17-2019)

Sec. 20-63. Water and sewer line construction plan approval.

For the purpose of establishing uniformity in construction of water and sewer lines, it shall be the duty of the director of water and sewer to approve all plans and specifications for water and sewer lines prior to construction. Construction of water and sewer mains shall not start until all applicable plan review or inspection fees have been paid. All plans showing as-constructed conditions shall be made a matter of record and shall be kept on file for the use of the city and public in maintenance, construction, alteration and repair of water and sewer lines.

(Code 1994, § 14.04.220; Ord. No. 97, 1992, § 4(part), 12-8-1992; Ord. No. 46, 2012, § 1, 12-18-2012; Ord. No. 39, 2019, exh. A, § 14.4.190, 9-17-2019)

Secs. 20-64--20-84. Reserved.

ARTICLE II. ENFORCEMENT

Sec. 20-85. Right of entry.

Upon presentation of proper credentials, the director of water and sewer or the director's designee may enter, at reasonable times, any subdivision, building, premises or area served by the water and sewer enterprises or on which water and sewer facilities, easements or other legal interests exist, to perform any duty imposed upon the director by this Code.

(Code 1994, § 14.04.230; Ord. No. 97, 1992, § 4(part), 12-8-1992; Ord. No. 39, 2019, exh. A, § 14.4.200, 9-17-2019)

Sec. 20-86. Stop-work authority.

Whenever any work is being done contrary to the provisions of this Code, the director of water and sewer may order the work stopped by notice in writing, served on any person engaged in doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the director of water and sewer to proceed with the work.

(Code 1994, § 14.04.240; Ord. No. 97, 1992, § 4(part), 12-8-1992; Ord. No. 39, 2019, exh. A, § 14.4.210, 9-17-2019)

Sec. 20-87. Appeals.

If a person or entity wishes to appeal any decision of the director of water and sewer pursuant to the provisions of this title, that person or entity shall file a written request with the director asking that the director's decision be reduced to writing and submitted for review by the water and sewer board, such review shall be considered as soon as reasonably possible. Appeals of decisions by the water and sewer board, excluding matters pertaining to the minimum water and sanitary sewer rates, shall be submitted in writing to the city clerk and considered by the city council.

(Code 1994, § 14.04.260; Ord. No. 97, 1992, § 4(part), 12-8-1992; Ord. No. 39, 2019, exh. A, § 14.4.220, 9-17-2019)

Sec. 20-88. Violations; penalties.

Any person or entity convicted of violating any provision of this title related to the tapping water or sewer mains, installing water service lines, meters, or other infrastructure, and taking and using water or sewer service

through any of the same, shall be punishable as provided in chapter 9 of title 1 of this Code.

(Code 1994, § 14.04.270; Ord. No. 97, 1992, § 4(part), 12-8-1992; Ord. No. 39, 2019, exh. A, § 14.4.230, 9-17-2019)

Secs. 20-89--20-119. Reserved.

ARTICLE III. WATER

Division 1. In General

Sec. 20-120. Tapping for water without authority unlawful.

It is unlawful for a person or entity to make a service connection with any water pipe or main of the waterworks without authorization from the director of water and sewer, or for a person or entity so authorized to install a tap or other service connection to the waterworks contrary to the provisions of this title.

(Ord. No. 39, 2019, exh. A, § 14.06.020, 9-17-2019)

Sec. 20-121. Certain water usage, turning on water unlawful.

(a) It is unlawful for a person or entity to use water through a tap or other service connection with any water pipe or main of the waterworks in a manner contrary to the provisions of this title.

(b) It is unlawful for a person or entity to turn on water service to a property, or to otherwise use water through a tap or other service connection to a property, when the director of water and sewer has directed that water service to such property be turned off.

(c) The director of water and sewer has the authority to designate water enforcement officials for the city.

(Ord. No. 39, 2019, exh. A, § 14.6.30, 9-17-2019)

Sec. 20-122. Maintenance required.

The owner of any premises for which a connection is made and a stopcock with box and cover placed, as provided in this title, shall keep such stopcock with box and cover placed as aforesaid in good condition at his expense and so that the director of water and sewer is able to turn off water from his service pipes at any time. From such stopcock to, in and upon his premises, the owner shall provide his own pipe and plumbing, which shall be constructed and placed so as to comply with all ordinances upon plumbing and shall, at his expense, at all times, keep all pipes, fixtures and appliances on his premises tight and in good working order so as to prevent waste of water. In case any pipe or fixture breaks or become imperfect, or so as to wastewater, he shall forthwith repair the same and keep the same in repair.

(Prior Code, § 22-17(a); Code 1994, § 14.08.230; Ord. No. 39, 2019, exh. A, § 14.08.100, 9-17-2019)

Sec. 20-123. Failure to maintain; unlawful; notice; turnoff.

It is unlawful for any owner or user of water to fail to comply with the provisions of section 20-153 and, until his pipes and fixtures are placed in good repair, the director of water and sewer shall turn off all water from such premises. If the director of water and sewer discovers, on inspection, that any plumbing or fixtures of any premises are so defective as to waste any water, he shall notify the owner or user of water to repair the same immediately and, if not repaired within 24 hours, he shall turn off the water from such premises, and the same shall remain turned off until such plumbing and fixtures are repaired.

(Prior Code, § 22-17(b); Code 1994, § 14.08.240; Ord. No. 39, 2019, exh. A, § 14.08.110, 9-17-2019)

Sec. 20-124. Damaging waterworks or protections thereto unlawful.

It is unlawful for any person to injure or otherwise damage any property or appliances constituting or being a part of the waterworks or any fence, guardrails, boxes, covers or buildings constructed and used to protect the waterworks or any part thereof.

(Prior Code, § 22-19(a); Code 1994, § 14.08.250; Ord. No. 39, 2019, exh. A, § 14.08.120, 9-17-2019)

Sec. 20-125. Trespassing or interfering with waterworks unlawful.

It is unlawful for any unauthorized person to trespass upon the waterworks or the grounds upon which the

same is constructed, in any manner to interfere with the waterworks or any part thereof, to meddle or interfere with any pipe, valve or appliance used to regulate the flow of water in the waterworks or any part thereof, or to change or alter the position of any valve or appliance regulating the flow of water in such pipeline or waterworks.

(Prior Code, § 22-19(b); Code 1994, § 14.08.260; Ord. No. 39, 2019, exh. A, § 14.08.130, 9-17-2019)

Sec. 20-126. Buildings with multiple users.

Owners of any business block or other building occupied by more than one tenant using or taking water from the same service pipe shall be required to pay the water and sewer rent for the whole of such block, building or premises before a license shall be granted for the use of water therein.

(Prior Code, § 22-22; Code 1994, § 14.08.330; Ord. No. 39, 2019, exh. A, § 14.08.200, 9-17-2019)

Secs. 20-127--20-150. Reserved.

Division 2. Fees, costs and collection

Sec. 20-151. Rates approved by water and sewer board.

The water rates for both inside and outside the city shall be the minimum rates as approved by the water and sewer board unless increased by resolution by the city council.

(Prior Code, § 22-7; Code 1994, § 14.08.070; Ord. No. 39, 2019, exh. A, § 14.08.010, 9-17-2019)

Sec. 20-152. Payment of charges.

All rates for the use of water as provided in this title shall be due and payable to the director of finance at his office in the city hall. In case water user fails to pay all charges within 30 days after the same become due, the same are delinquent and the city may disconnect water service from every premises, building, house or lot in default until the delinquent charges are paid, including payment of reconnection charges as provided in sections 20-122 and 20-223.

(Prior Code, § 22-9(a); Code 1994, § 14.08.090; Ord. No. 65, 1990, § 1(part), 12-11-1990; Ord. No. 24, 1999, § 2, 6-1-1999; Ord. No. 39, 2019, exh. A, § 14.08.020, 9-17-2019)

Sec. 20-153. Bills may be sent; process for bill disputes.

The director of finance may, but shall not be required to, give notice to users of water of the amount of their water rates and when due, and he may include in such notice and shall collect with the water rates the sewer assessment provided for in section 18-388 et seq., prorating such assessment with the water rates. Any customer that believes its water and sewer bill contains improper charges may submit a bill dispute in writing to the director of water and sewer.

(Prior Code, § 22-9(b); Code 1994, § 14.08.100; Ord. No. 39, 2019, exh. A, § 14.08.030, 9-17-2019)

Sec. 20-154. Service line failure; computation of charges.

If a person or entity discovers a leak or other failure in its service line, and the director of water and sewer finds that such leak or service line failure directly caused artificially elevated charges in a particular billing period, the customer may be charged based upon its average consumption for the same period in the two years immediately preceding the leak or service line failure, and accordingly billed at the current rates.

(Ord. No. 39, 2019, exh. A, § 14.08.040, 9-17-2019)

Sec. 20-155. Rebates for unused water prohibited.

There shall be no rebates for unused water or for the cease of rental water use by a lessee before expiration of the time period for which water has been rented.

(Prior Code, § 22-8(b); Code 1994, § 14.08.110; Ord. No. 39, 2019, exh. A, § 14.08.050, 9-17-2019)

Sec. 20-156. Credits for unused water permitted.

Any water user under the flat rate provided for in this chapter who completely vacates the premises for which such charge is made, for not less than 30 days continuously during the period for which he has paid flat rate charges

for water under this chapter, shall be allowed credit on the portion of his bill which is charged for domestic water exclusive of lawns and sprinkling, in the proportion of such part of such bill that the period of vacancy bears to the full billing period for which flat rates are charged; provided, however, that such user shall notify the director of finance, in writing, at the beginning of such vacancy, that such premises are to be vacated, shall direct that all water for domestic (house) purposes be shut off from such premises, shall likewise notify the director of the time when such water is to be again turned on, and shall request that the director of water and sewer turn on the water to such premises. No such credit shall be allowed unless such premises are completely vacated for at least 30 days continuously, nor unless such written notice is given, nor unless the director of water and sewer is requested to turn on the water.

(Prior Code, § 22-9(c); Code 1994, § 14.08.120; Ord. No. 65, 1990, § 1(part), 12-11-1990; Ord. No. 39, 2019, exh. A, § 14.08.060, 9-17-2019)

Sec. 20-157. Lien enforcement.

All water rates shall be a charge and lien upon the premises to which water is delivered from the date the same becomes due and until paid, and the owner of every building, premises, lot or house shall be liable for all water delivered to or taken and used upon his premises, which lien and liability may be enforced by the city by an action at law or suit to enforce such lien. In case the tenant in possession of such premises or buildings pays the water rent or rate, it shall relieve his landlord from such obligations and lien, but the city shall not be required to look to any person whatsoever other than the owner for the payment of water rents and rates provided for in this chapter.

(Prior Code, § 22-23; Code 1994, § 14.08.340; Ord. No. 39, 2019, exh. A, § 14.08.210, 9-17-2019)

Sec. 20-158. Turn-on charge.

When water is once turned on to any premises and thereafter turned off for any reason, it shall not be turned on again until the turn on charge, as established by the water and sewer board, has been paid.

(Prior Code, § 22-24; Code 1994, § 14.08.350; Ord. No. 65, 1990, § 1(part), 12-11-1990; Ord. No. 39, 2019, exh. A, § 14.08.220, 9-17-2019)

Sec. 20-159. Extra charges for connections.

All persons desiring water service for buildings located on property abutting a public water line shall be required to pay an extra charge if all of the following circumstances exist:

(1) The section of the public water line on which the property abuts was constructed in accordance with city specifications and requirements with prior approval by the city, at the expense of one or more private persons;

(2) The section of the public water line was constructed along the entire frontage of the property of the person who paid for such construction;

(3) The person against whom the extra charge is to be assessed applied for water service within ten years of the completion of the construction; and

(4) The building to be served with water service is located on land which was owned at the time of construction by a person who did not participate in the cost of construction.

(Code 1994, § 14.08.360; Ord. No. 97, 1992, § 5(part), 12-8-1992; Ord. No. 39, 2019, exh. A, § 14.08.230, 9-17-2019)

Sec. 20-160. Computation of extra charges.

As to each property for which water service is applied for, the extra charge with respect to that application for service will be computed with reference to the construction costs of the section of public water line on which the property abuts. In each case, the extra charge will be computed by prorating the construction cost, without interest or other charges, against the frontage of all property abutting on the section of public water line involved.

(Code 1994, § 14.08.370; Ord. No. 97, 1992, § 5(part), 12-8-1992; Ord. No. 39, 2019, exh. A, § 14.08.240, 9-17-2019)

Sec. 20-161. Private payment for public water; reimbursement.

Private persons who pay for the constructions of sections of public water lines and who desire partial reimbursement for such payment shall deliver a written document to the director of water and sewer setting forth

the total construction cost, with proof of payment, and setting forth the name and address of an individual, bank or other organization authorized to receive payments from the city pursuant to this section. Only water lines constructed by prior approval of the ~~administrative authority~~ director of water and sewer or designee and completed within 12 months of approval in strict accordance with city standard specifications for water line construction will be considered for reimbursement. As extra charges are paid to the city pursuant to sections 20-122 and 20-123, the city shall transmit such payments to such authorized individual, bank or other organization. The city shall have no responsibility to see that such individual, bank or other organization properly deals with such funds. The city shall not recognize any recipients or claimants other than the named individual, bank or other organization.

(Code 1994, § 14.08.380; Ord. No. 97, 1992, § 5(part), 12-8-1992; Ord. No. 39, 2019, exh. A, § 14.08.250, 9-17-2019)

Secs. 20-162--20-190. Reserved.

Division 3. Requirements and Limitation

Sec. 20-191. Cross-connection control.

(a) *Purpose*. This section is intended to protect the city's potable waterworks from contamination by backflow from a property owner's internal plumbing system or private water system through an ongoing program of cross-connection control (also known as containment). Nothing in this section relieves a property owner from the cross-connection control requirements of the plumbing code contained in chapter 9 of title 22 of this Code, which protects against backflow within a property owner's system (also known as isolation).

(b) *Definitions*. As used in this chapter, unless the context otherwise requires:

Backflow means reversal of the normal direction of flow in the city's potable water works that can occur when pressure within a source connected to the city's system is greater than the water pressure within the city's potable water works.

Backflow preventer means a device, assembly, method or type of construction designed to prevent backflow into the city's potable water works by separating the property owner's water system from the city's water system.

Certified cross-connection technician means a person who meets the requirements of article 12.2 of the Colorado Primary Drinking Water Regulations (as effective on March 30, 2004).

Cross-connection means a link between the city's potable water works and a potential source of contamination, which could allow such contamination to backflow into the city's system.

Industrial and commercial operations means any property or account whose operations are not strictly domestic residential.

(a) *Illegal cross-connections*. It is unlawful for any person to make, install, maintain or permit any cross-connection to the city's potable water works, except in accordance with the provisions of this section.

(b) *Backflow prohibited*. Any backflow into the city's potable water works is strictly prohibited.

(c) *Backflow preventers/inspection requirements.*

(1) The director of water and sewer shall identify those cross-connections requiring a backflow preventer based on the degree of hazard presented by such cross-connection, as determined by the director of water and sewer. Such cross-connections shall at least include all industrial and commercial operations connected to the city's potable water works. All backflow preventers must be approved by and installed in accordance with the standards and specifications established or adopted by, the director of water and sewer.

(2) The property owner shall install, operate, test and maintain backflow preventers at his expense to protect the city's potable water works. The property owner shall have the backflow preventer tested upon installation by a certified cross-connection control technician, and annually thereafter, unless, due to the hazard presented by the connection, the director of water and sewer requires more frequent testing. The property owner shall immediately repair or replace any backflow preventer found to be defective.

(3) The property owner shall submit records of testing, maintenance and repairs to the water and sewer department within five days of completing such activities. The property owner and the water and sewer

department shall retain such records for at least three years.

(4) The director of water and sewer retains the right to test or otherwise check the installation and operation of any backflow preventer to ensure proper installation and operation.

(d) *Survey and prevention*. The director of water and sewer is authorized to conduct surveys to identify hazardous cross-connections, verify the existence of backflow preventers, and to otherwise support a program to eliminate cross-connection hazards.

(e) *Reporting of uncontrolled cross-connections*. Any person who becomes aware of an uncontrolled cross-connection that may require a backflow preventer pursuant to this section shall promptly report such connection to the water and sewer department.

(f) *Discontinuing water service*. The director of water and sewer may discontinue water service to any premises for which the owner fails to comply with the requirements of this section, or to which the owner denies reasonable access to the director of water and sewer as authorized by section 20-85 to determine compliance with this section. Such discontinuance of water service may be summary, immediate and without written notice whenever the director of water and sewer determines that such action is necessary to address an imminent threat to the city's water works or its water customers.

(Code 1994, § 14.08.195; Ord. No. 57, 1996, § 8, 11-19-1996; Ord. No. 64, 2004, § 1, 10-19-2004; Ord. No. 39, 2019, exh. A, § 14.08.070, 9-17-2019)

Sec. 20-192. Repair of system; restriction of use.

The director of water and sewer may, when he deems it necessary because of repair of any portion of the transmission or distribution system, restrict the use of water and, if need be, prohibit the use of water for sprinkling until the water system has been repaired.

(Prior Code, § 22-14; Code 1994, § 14.08.200; Ord. No. 39, 2019, exh. A, § 14.08.080, 9-17-2019)

Secs. 20-193--20-222. Reserved.

Division 4. Water Conservation

Sec. 20-223. Wasting water unlawful.

(a) It is unlawful for any person using city water to use said water to allow or permit water to run to waste upon his premises, buildings, houses or lots, in, through or out of any water closet lavatory, urinal, bathtub, hose, hydrant, faucet or other fixtures, appliances or apparatus whatsoever, or in any manner through neglect or by reason of faulty or imperfect plumbing or fixtures.

(b) It is unlawful for any person, partnership, company or corporation or other entity using city water, at any time during a declared drought, to use water to clean any hard surface upon or adjacent to the premises, building, house or lot. For the purposes of this section, the term "hard surface" includes, but is not limited to, driveways, sidewalks and streets and street gutters. Use of water in cleaning property such as roof gutters, eaves, windows or in preparation for painting is allowed as long as waste does not occur.

(c) It is unlawful for any person, partnership, company or corporation or other entity using city water to allow, either manually or automatically, the sprinkling or watering of hard surface; to allow excessive runoff of water from the premises, building, house or lot; and/or to allow the excessive pooling of water upon or adjacent to the premises, houses or lots. Runoff that is more than five gallons per minute is considered excessive.

(d) Penalties.

(1) Any person who violates any of the provisions of this section is guilty of violation of this section and shall be punished by a fine of $100.00 for the first conviction during the calendar year, $250.00 for the second conviction during the calendar year, $500.00 for the third conviction during the calendar year and $500.00 and a flow restrictor to limit water to indoor use only of water service for the fourth conviction during the same calendar year may be required.

(2) Each day of violation shall constitute a separate offense as provided in section 1-230.

(e) Intent. The violations described in this section are strict liability offenses, as defined in chapter 10 of this

Code.

(Prior Code, § 22-16; Code 1994, § 14.08.220; Ord. No. 45, 2002, § 1, 7-2-2002; Ord. No. 55, 2002, § 1A, 10-15-2002; Ord. No. 15, 2004, § 2, 4-6-2004; Ord. No. 39, 2019, exh. A, § 14.08.090, 9-17-2019)

Sec. 20-224. Contaminating, polluting or obstructing water unlawful.

It is unlawful for any person to cast, place, dump or deposit in the waterworks any substance or material which will contaminate or pollute the water in the waterworks or in any pipe, reservoir, filter sedimentation basin or any appliance forming a part of the waterworks or in any manner to obstruct the waterworks or pollute the water therein.

(Prior Code, § 22-19(c); Code 1994, § 14.08.270; Ord. No. 39, 2019, exh. A, § 14.08.140, 9-17-2019)

Sec. 20-225. Polluting or contaminating Cache La Poudre River unlawful; liability.

It is unlawful for any person or entity, in any manner, to pollute or contaminate the waters of the Cache la Poudre River or its tributaries for a distance of five miles above the intake of the waterworks or to have, keep or maintain at, along or near the banks of the Cache la Poudre River for a distance of five miles above the intake of the waterworks any building, privy, pen, yard or corral for stock, or to have, keep or conduct any business near such stream as aforesaid which will contaminate or pollute the waters of such river or render the same unfit for domestic use. Any person or entity who violates any provisions of this section, upon conviction thereof, shall, in addition to other penalties, be liable for all damages for such unlawful acts.

(Prior Code, § 22-19(d); Code 1994, § 14.08.280; Ord. No. 39, 2019, exh. A, § 14.08.150, 9-17-2019)

Sec. 20-226. Sprinkling restrictions; drought levels; penalty.

(a) *Sprinkling*. The following provisions shall apply at all times unless modified by subsequent sections of the ordinance codified herein:

(1) Waste of water is prohibited at any time.

(2) Sprinkler irrigation shall not occur between 10:00 a.m. and 6:00 p.m. from May through August even when water supplies are adequate.

(3) Drip irrigation, low-volume spray or bubbling sprinklers, hose-end sprinklers and weeping-type soaker hoses are allowed to water trees, shrubs or flower beds at any time.

(4) Hand-watering of vegetables and flower gardens, trees and shrubs and individual brown spots in a lawn is allowed at any time, so long as water waste does not occur. Hand-watering means holding in the hand a hose with attached positive shutoff nozzle and does not include operating a hose with a sprinkler or manually operating an irrigation controller.

(5) Except during time of adequate water supply, hand-watering to clean hard surfaces such as driveways and parking lots is prohibited. Hand-watering to clean property, such as roof gutters, eaves, windows or in preparation for painting, is allowed as long as water waste does not occur.

(6) Public organizations. The use of water for sprinkling lawns, gardens and trees on the grounds of public organizations, public parks and public golf courses served by the city water system will be permitted at any time with written variance from the director of water and sewer. The public organizations to which this subsection refers include, but are not limited to, county facilities, the University of Northern Colorado campus, School District #6 grounds, and City of Greeley grounds, including parks, golf courses and Linn Grove cemetery.

(7) New lawn variance. The use of water for sprinkling newly seeded or sodded lawns less than one month old will be allowed during times determined by the director of water and sewer pursuant to a permit for the same. Issuance of such a permit is contingent upon proof of proper soil preparation before installation of turf. Proper soil amendment is considered to be the equivalent of adding compost at a rate of four cubic yards per 1,000 square feet of planted area, incorporated to a depth of six inches. Permits shall be posted on the property.

(8) Large user variance. The use of water for sprinkling large areas with multiple addresses, such as homeowners' associations, or other special circumstances, may be allowed during the times and days of

the week as determined by the director of water and sewer and defined by a permit for the same. Such written permits shall be posted on the property.

(9) Except during a time of declared adequate water supplies, there shall be no lawn watering between January 1 and April 14. Charging and testing of sprinkler systems is allowed. Sprinkling may be allowed by written variance.

(10) Unusual circumstances. The director of water and sewer may issue variance permits to address any other circumstances that, in the director's sole discretion, are deemed appropriate.

(b) *Restrictions.*

(1) *Even-odd schedule*.

a. Even-numbered addresses may sprinkle on even days of the month.

b. Odd-numbered addresses may sprinkle on odd days of the month.

c. On May 31, July 31 and August 31, odd addresses may sprinkle in the morning and even addresses may sprinkle in the evening.

(2) *One-day-per-week watering*. All properties may use water for sprinkling only one day per week.

a. Single-family residences and duplexes with addresses ending in an even number may sprinkle on Sundays.

b. Single-family residences and duplexes with addresses ending in an odd number may sprinkle on Saturdays.

c. All other customers, commercial, industrial, multifamily and homeowners' associations may sprinkle on Fridays.

(3) *Two-days-per-week watering*.

a. Single-family residences and duplexes with addresses ending in an even number may sprinkle on Sundays and Thursdays.

b. Single-family residences and duplexes with addresses ending in an odd number may sprinkle on Wednesdays and Saturdays.

c. All other customers, commercial, industrial, multifamily and homeowners' associations may sprinkle on Tuesdays and Fridays.

d. There shall be no watering on Mondays except by written variance.

(4) *Three-days-per-week watering*.

a. Single-family residences and duplexes with addresses ending in an even number may sprinkle on Sundays, Tuesdays and Thursdays.

b. Single-family residences and duplexes with addresses ending in an odd number may sprinkle on Mondays, Wednesdays and Saturdays.

c. All other customers, commercial, industrial, multifamily and homeowners' associations may sprinkle on Sundays, Tuesdays and Fridays.

(5) *Hand-watering*. The term "hand-watering" means holding in the hand a hose with attached positive shutoff nozzle. The term "Hand-watering" does not include operating a hose with a sprinkler or manually operating an irrigation controller.

(c) *Drought levels*. On the determination by the city water and sewer board, after an analysis, including, but not limited to, the Colorado Big Thompson quota, the level of storage in city reservoirs, snow pack and yield thereof, and the long-range weather forecast, that the city's water supply situation is adequate or in a mild drought, moderate drought or severe drought, the city council may, by resolution, declare one of the following four sets of watering restrictions to be in effect:

(1) When the city's water supply is adequate. The use of city water for sprinkling of private residences,

commercial and industrial property, church or other nonprofit or governmental organization lawns, gardens and trees by customers not subject to the water budget rate structure will be permitted three days per week between April 15 and the end of the irrigation season. The use of city water for sprinkling of private residences by single-family residential customers subject to the water budget rate structure will be permitted on any day of the week between April 15 and the end of the irrigation season.

(2) When the city's water supply is in a mild drought. The use of city water for sprinkling of private residences, commercial and industrial property, church or other nonprofit or governmental organization lawns, gardens and trees will be permitted:

a. One day per week between April 15 and May 14.

b. Two days per week between May 15 and June 14.

c. Three days per week between June 15 and August 31.

d. One day per week between September 1 and the end of the irrigation season.

e. Sprinkler irrigation shall not occur between 10:00 a.m. and 6:00 p.m. daily.

(3) When the city's water supply is in a moderate drought. The use of city water for sprinkling of private residences, commercial and industrial property, church or other nonprofit or governmental organization lawns, gardens and trees will be permitted:

a. One day per week between April 15 and May 14.

b. Two days per week between May 15 and August 31.

c. One day per week between September 1 and the end of the irrigation season.

d. New sod or seed variances are not allowed between May 15 and August 31.

e. Sprinkler irrigation shall not occur between 10:00 a.m. and 6:00 p.m. daily.

(4) When the city's water supply is in a severe drought. The use of city water for sprinkling of private residences, commercial and industrial property, church or other nonprofit or governmental organization lawns, gardens and trees will be permitted:

a. One day per week between April 15 and May 14.

b. Two days per week between May 15 and June 14.

c. No sprinkler irrigation between June 15 and August 1 will be permitted, except for trees and shrubs.

d. Two days per week between August 1 and August 31.

e. One day per week between September 1 and the end of the irrigation season.

f. No new sod or seed variances are allowed.

g. Sprinkler irrigation shall not occur between 10:00 a.m. and 6:00 p.m. daily.

When the city council declares which set of water restriction are in place, the city council may define city policy regarding the use of warnings prior to notices of violation being issued.

(d) *Penalties.*

(1) Any person who violates any of the provisions of this section during a calendar year shall be punished by a fine of $100.00 for the first violation, $250.00 for the second violation, $500.00 for the third violation, and $500.00 and the cost of installing a flow restrictor to limit water use to indoor use only for the fourth and subsequent violations.

(2) Violations on property other than residential property shall be punished by fines which are double those described in subsection (d)(1) of this section.

(3) Each day of violation shall constitute a separate offense as provided in section 1-230 and shall be a strict liability offence.

(4) During a declared severe drought, all fines are doubled or up to $1,000.00, whichever is less.

(Code 1994, § 14.08.290; Ord. No. 30, 2003, § 2, 4-15-2003; Ord. No. 50, 2003, § 1, 7-15-2003; Ord. No. 63, 2003, § 1, 10-21-2003; Ord. No. 15, 2004, § 1, 4-6-2004; Ord. No. 54, 2004, § 1, 9-21-2004; Ord. No. 26, 2005, § 1, 4-5-2005; Ord. No. 23, 2011, § 1, 8-2-2011; Ord. No. 39, 2019, exh. A, § 14.08.160, 9-17-2019; Ord. No. 01, 2020, exh. A, § 14.08.160, 2-4-2020)

Sec. 20-227. Limitation of sprinkling by mayor; violation.

The mayor may, by proclamation, limit the hours of sprinkling or may entirely prohibit the use of water for sprinkling purposes in case of failure of the water system or shortage of water supply. In case the mayor issues a proclamation restricting or prohibiting the use of water for sprinkling, it is unlawful to use water for sprinkling purposes contrary to such proclamation.

(Prior Code, § 22-20(b); Code 1994, § 14.08.300; Ord. No. 39, 2019, exh. A, § 14.08.170, 9-17-2019)

Sec. 20-228. Nozzle or sprinkler required.

It is unlawful for any person to use water for sprinkling through a hose without a nozzle or sprinkler or by means of a nozzle or sprinkler attached with an orifice therein exceeding 3/16 of an inch in diameter.

(Prior Code, § 22-21(a); Code 1994, § 14.08.310; Ord. No. 39, 2019, exh. A, § 14.08.180, 9-17-2019)

Sec. 20-229. Sprinkling prohibited during fires.

It is unlawful for any person to use water for sprinkling during any fire or while the fire department is using water for fire purposes, and when the fire alarm is sounded all persons are required to cease using water for sprinkling and shall immediately shut off the use of water for such purpose.

(Prior Code, § 22-21(b); Code 1994, § 14.08.320; Ord. No. 39, 2019, exh. A, § 14.08.190, 9-17-2019)

Secs. 20-230--20-251. Reserved.

Division 5. Water Service

Sec. 20-252. Initiation of water service; service commitment agreements.

(a) Any person or entity seeking water service from the city shall make a request for such service within the associated land use or development application process required by title 24 of this Code. If the person or entity seeking water service is not pursuing a land use or development application, the request shall be made in writing to the director of water and sewer. it is unlawful for a person or entity to take and use water service from the city without first obtaining authorization from the director of water and sewer.

(b) Requests for water service made through the land use or development application process required by title 24 of this Code shall be forwarded to the director of water and sewer. All requests for water service shall include the information necessary to determine all applicable fees and rates for such service. The director of water and sewer shall not authorize any such water service until all required information is received and all required fees are paid.

(c) All applicants granted authorization for water service to nonresidential and multifamily residential developments with more than four units within the city limits shall execute a service commitment agreement to be recorded with the county clerk and recorder setting forth the details and parameters of such service, including the person or entity to whom service is granted, the date upon which service shall commence, the specific location at which the tap or service connection shall be made, the permitted size of the tap or service connection, a description of the property to which service will be provided, and the permissible uses of water on the property.

(Ord. No. 39, 2019, exh. A, § 14.06.10, 9-17-2019)

Sec. 20-253. Taps required; service line extensions prohibited.

(a) Each detached single-family residential building, multifamily residential building, and nonresidential building shall be served by a minimum of one separate water tap and service line. Buildings with mixed residential and non-residential uses shall be served by separate water taps for the residential and non-residential components of the development.

(b) A separate and additional landscape irrigation tap shall be required for all nonresidential buildings and multifamily residential buildings with more than four units. The director of water and sewer has the authority to

grant a variance to the landscape irrigation tap requirement in this section upon a written finding that the subject property can be served by a single tap due to minimal landscaping irrigation demand.

(c) It is unlawful for a person or entity to extend a service line to serve any other buildings, lots or premises contrary to the requirements of this section. Notwithstanding the foregoing, the director of water and sewer has the discretionary authority to grant variances when appropriate for accessory uses on the same property or an adjoining lot.

(d) A prohibited service line extension that was installed prior to September 1, 2019, may remain in effect so long as it does not create a sanitation, public health or public nuisance problem. If, in the discretion of the director of water and sewer, a prohibited service line extension creates a sanitation, public health or public nuisance problem, the subject property owner shall separate the compound tap at their own expense.

(e) The owner of a property to which a new water service line is installed after the associated separation of a compound tap shall be required to pay all fees applicable to the initiation of water service to the subject property, including, without limitation, the costs required to install another water tap and service line. Plant investment fees that would otherwise be due and payable for a new water service line installed pursuant to this section shall be waived upon a written finding of the director of water and sewer that there will be no increase in water service to the subject property.

(f) The use of a common service line by abutting property owners shall not alter the maintenance responsibility of the users of the common service line. The common service shall not constitute a public responsibility and the director of water and sewer shall not perform maintenance or repair on the separate or combined service lines that may serve abutting properties.

(Ord. No. 39, 2019, exh. A, § 14.06.40, 9-17-2019)

Sec. 20-254. Water rights dedication; amounts and criteria.

(a) All applicants for water service within the city limits shall dedicate to the city, as a prerequisite to and as part of the consideration for city water service to the subject property, water rights that the city, in its sole discretion, can use in its water system.

(b) All dedications of water rights proposed to satisfy the requirements of this section are subject to approval by the director of water and sewer. Water rights approved for dedication shall meet the requisite criteria under state law for conversion of the water to municipal use by the city, including, without limitation, sustained historical consumptive use. Such water rights shall also meet the criteria for dedication of water rights to the city set forth by resolution of the water and sewer board. The transfer of water rights approved for dedication to the city shall be made by the applicant for water service no later than the date on which a final plat for the development is approved.

(c) Applicants for water service to single-family residential and multifamily residential developments with four units or less within the city limits shall dedicate raw water in the amount of three acre-feet per acre, or fraction thereof, of property to which water service will be provided.

(d) Applicants for water service to nonresidential and multifamily residential developments with more than four units within the city limits, including, without limitation, commercial, industrial, and group housing (apartment buildings, condominiums, nursing homes, hotels, and motels), shall dedicate raw water in the amount of the water service demand for the subject development. The water service demand for nonresidential and large multifamily residential developments shall be determined by multiplying the total units proposed by the applicant by the average unit use, as set forth in the business category and water use table below. The water service demand for industrial developments and commercial developments of a type not specifically identified in the business category and water use table below shall be determined by the director of water and sewer on a case-by-case basis, utilizing the projected volume of total water use by the subject development.

Business Category and Water Use

Category	Units	Average Unit Use (Gallons Per Unit per Year)
Auto service and repair	SF	12
Car wash	BAY	1,350,000
Childcare	SF	47
Church	SF	4.5
Grocery store	SF	20
Gas station without car wash	SF	93
Hospital	SF	21
Hotel/motel	ROOM	30,300
Medical office	SF	25
Multifamily residential (greater than 4 units)	UNIT	35,500
Office	SF	14
Recreation with pool	SF	122
Recreation without pool	SF	25
Restaurant (outdoor seating areas 50 percent)	SF	188
Retail	SF	16
School	SF	11
Warehouse	SF	5
Industrial and other commercial	Demand Determined on Case-By-Case Basis	

(Ord. No. 39, 2019, exh. A, § 14.06.50, 9-17-2019)

Sec. 20-255. Cash in lieu of raw water required; single-family and small multifamily residential.

(a) Any applicant for water service to single-family residential and multi- family residential developments with four units or less within the city limits that cannot satisfy the requirements of section 20-254 in full through the dedication of water rights shall furnish to the city a cash-in-lieu fee to fulfill the remainder of the dedication requirement associated with its request for water service.

(b) The cash-in-lieu fee for single-family residential and multifamily residential developments with four units or less shall be set by resolution of the water and sewer board and calculated as the cash equivalent of three acre-feet of water per acre, or fraction thereof, of property to which water service will be provided, using the fair market value of water per acre-foot.

(Ord. No. 39, 2019, exh. A, § 14.06.60, 9-17-2019)

Sec. 20-256. Cash in lieu of raw water required; nonresidential and large multifamily residential.

(a) Any applicant for water service to nonresidential and multifamily residential developments with more than four units within the city limits, including, without limitation, commercial, industrial, and group housing (apartment buildings, condominiums, nursing homes, hotels, and motels), that cannot satisfy the requirements of section 20-254 in full through the dedication of water rights shall furnish to the city a cash-in-lieu fee to fulfill the remainder of the dedication requirement associated with its request for water service.

(b) The cash-in-lieu fee for nonresidential and large multifamily residential developments shall be set by resolution of the water and sewer board and calculated by multiplying the water service demand for the subject property, as determined in accordance with section 20-254(d), by the fair market value of water per acre-foot.

(Ord. No. 39, 2019, exh. A, § 14.06.70, 9-17-2019)

Sec. 20-257. Exception for large parcel single-family residential.

(a) The water rights dedication and cash-in-lieu fee requirements set forth in sections 20-254 through 20-256 shall not apply to applications for domestic water service to parcels of land exceeding one acre that contain only one single-family residence. Any application for water service to such a parcel through a tap larger than three-quarters of an inch in diameter is not considered domestic, and therefore ineligible for the exception in this section.

(b) All applicants for large parcel single-family residential water service pursuant to this section shall dedicate to the city raw water in the amount of three acre-feet per three-quarter-inch domestic tap, as a prerequisite to, and as a part of the consideration for, city water service to the subject property.

(c) Any applicant for large parcel single-family residential water service pursuant to this section that cannot satisfy the requirement of subsection (b) of this section in full through the dedication of water rights shall furnish to the city a cash-in-lieu fee to fulfill the remainder of the dedication requirement associated with its request for water service.

(d) The cash-in-lieu fee for large parcel single-family residential water service pursuant to this section shall be set by resolution of the water and sewer board and calculated as the cash equivalent of three acre-feet of water per three-quarter-inch domestic tap, using the fair market value of water per acre-foot.

(Ord. No. 39, 2019, exh. A, § 14.06.80, 9-17-2019)

Sec. 20-258. Determination of fees for cash in lieu of raw water.

The cash-in-lieu fee requirement associated with a request for water service, as set forth in sections 20-255 through 20-257, shall be determined at the time that request is made. However, all pending requests for water service shall be reviewed every six months. If at the time of any such review the cash-in-lieu fees set by resolution of the water and sewer board have changed, the cash-in-lieu fee associated with that request for water service shall be updated accordingly. The water and sewer board shall determine, in its sole discretion, the fair market value of water utilized to calculate cash-in-lieu fees pursuant to this chapter.

(Ord. No. 39, 2019, exh. A, § 14.06.090, 9-17-2019)

Sec. 20-259. Applicability of water rights dedication and cash in lieu of raw water requirements.

The water rights dedication and cash-in-lieu fee requirements set forth in sections 20-254 through 20-257 shall be applied one time only to any development, subdivision, or parcel of land within the city limits for which water service is requested, unless such parcel is redeveloped, further subdivided, or an additional water tap or service is requested. If redevelopment or further subdivision is made of any such parcel of land, the water rights dedication and cash-in-lieu fee requirements set forth in sections 20-254 through 20-257 shall be applied to all parcels where an additional water tap or service is requested.

(Ord. No. 39, 2019, exh. A, § 14.06.100, 9-17-2019)

Sec. 20-260. Raw water surcharge and supplemental cash in lieu of raw water; exception.

(a) A nonresidential or large multifamily residential customer whose metered water use in a calendar year exceeds its annual allotment shall be required to pay a raw water surcharge on the volume of water used in excess of such allotment, as set forth in its service commitment agreement.

(b) Nonresidential and large multifamily residential customers who initiated water service prior to the enactment of the ordinance codified in this section and have not executed a service commitment agreement shall be entitled to an annual allotment in accordance with the raw water dedicated or cash in lieu of raw water it paid upon initiation of service. Any such customer whose metered water use in a calendar year exceeds its annual allotment shall be required to pay a raw water surcharge on the volume of water used in excess of such allotment.

(c) Large parcel single-family residential customers shall be entitled to an annual allotment of three acre-feet per three-quarter-inch domestic tap. any such customer whose metered water use in a calendar year exceeds its annual allotment shall be required to pay a raw water surcharge on the volume of water used in excess of such allotment.

(d) The raw water surcharge applicable to customers pursuant to this section shall be set by resolution of the water and sewer board. Any customer whose metered water use in a calendar year exceeds its annual allotment may also furnish to the city a separate supplemental cash-in-lieu fee to increase its annual allotment. any such supplemental cash-in-lieu fee shall be calculated using the fair market value of water per acre-foot, as set by the water and sewer board and in place when the raw water surcharge payment is due and payable, and shall result in a corresponding increase to the annual allotment for that customer, whether as determined in accordance with this section or as set forth in its service commitment agreement.

(e) Any nonresidential, large multifamily residential, or large parcel single-family residential customer who initiates or modifies its water service after the enactment of the ordinance codified in this section and whose metered water use in a calendar year exceeds the annual allotment set forth in its service commitment agreement in any two consecutive calendar years shall be required to pay a supplemental cash-in-lieu fee to increase its annual allotment, as described in subsection (d) of this section.

(f) Any customer whose metered water use during its first full calendar year of water service exceeds its annual allotment shall be exempt from the raw water surcharge and supplemental cash-in-lieu fee requirements of this section for that first year only.

(Ord. No. 39, 2019, exh. A, § 14.06.110, 9-17-2019)

Sec. 20-261. Credit for raw water supplies dedicated or cash in lieu of raw water paid; existing taps.

(a) An applicant for water service shall not be required to dedicate raw water or pay a cash-in-lieu fee if the raw water dedication or cash in lieu of raw water requirement for the subject property was satisfied in full prior to the enactment of the ordinance codified in this section. Notwithstanding the foregoing, any such applicant that seeks to initiate new water service, change the type of water service, or change the use of a nonresidential development shall be subject to the water rights dedication and cash-in-lieu fee requirements set forth in sections 20-254 through 20-257.

(b) Any customer that seeks to abandon an existing water tap in favor of a smaller or larger tap to serve the same property shall be entitled to a credit against the water rights dedication and cash-in-lieu fee requirements set forth in sections 20-254 through 20-257. such credit shall be equal to the raw water previously dedicated or cash-in-lieu fee previously paid for development of the subject property. If there are no records to evidence the previous dedication of water rights or payment of cash-in-lieu fee for the subject property, such credit shall be equal to the then current cash-in-lieu fee value associated with the abandoned tap, but shall not include credit for any fire flow diameter associated with the abandoned tap.

(c) Any credit issued for an abandoned tap pursuant to this section shall not exceed the cash-in-lieu fee due and payable for the replacement tap; the city shall not be required to provide cash refunds for any such credit.

(Ord. No. 39, 2019, exh. A, § 14.06.120, 9-17-2019)

Sec. 20-262. Plant investment fees for water service; inside and outside the city.

(a) All applicants for water service, whether inside or outside the city limits, shall furnish to the city a water plant investment fee as a prerequisite to, and as a part of the consideration for, city water service to the subject property. The water plant investment fee shall be the minimum amount set by resolution of the water and sewer board, unless subsequently increased by resolution of the city council. The diameter of a service line water tap installed for fire suppression purposes shall not be considered when calculating plant investment fees due pursuant

to this section.

(b) Upon approval of the director of water and sewer, plant investment fees may be based on the volume of a customer's annual allotment rather than the diameter of its tap. When the director of water and sewer authorizes a plant investment fee based on size of service, the schedule of tap fees set by resolution of the water and sewer board shall be applied in accordance with the size of service.

(Ord. No. 39, 2019, exh. A, § 14.06.130, 9-17-2019)

Sec. 20-263. Installation costs for water service.

(a) In addition to the water plant investment fee requirement set forth in section 20-262, an applicant for water service shall pay for all meters, labor and other materials required to tap the water main, to install service pipes, and to trench and repair the street, as such costs are determined by the director of water and sewer.

(b) All costs shall be paid by the applicant in advance of such work and no later than the time at which a building permit is issued by the city for the subject property.

(Ord. No. 39, 2019, exh. A, § 14.06.140, 9-17-2019)

Sec. 20-264. Water plant investment fee credits and exchange; renovations.

(a) Any customer that seeks to abandon an existing water tap in favor of a smaller or larger tap to serve the same property shall be entitled to a credit against the water plant investment fee requirement set forth in section 20-262. such credit shall be equal to the then current plant investment fee value associated with the abandoned tap but shall not include credit for any fire flow diameter associated with the abandoned tap. Any credit issued for an abandoned tap pursuant to this section shall not exceed the water plant investment fee due and payable for the replacement tap; the city shall not be required to provide cash refunds for any such credit.

(b) Any tap abandoned pursuant to this section shall be turned off at the main, and the costs associated with turning off the abandoned tap shall be borne by the person or entity requesting the change of service.

(c) Any customer that renovates one or more residential units that were constructed prior to January 20, 1959, and is accordingly required to replace an existing tap that serves such residential units to comply with the current minimum tap size requirements established by the water and sewer board shall not be required to furnish an additional water plant investment fee if the renovation does not increase the number or size of the residential units, and the use of the subject property is not changed.

(Ord. No. 39, 2019, exh. A, § 14.06.150, 9-17-2019)

Sec. 20-265. Payment of fees and costs; exception.

(a) Payment in full of costs and fees required pursuant to this chapter shall be a prerequisite to receiving city water service, and all such costs and fees required shall be due and payable by the applicant for water service no later than the date on which a building permit is issued.

(b) Notwithstanding the procedures set forth in this chapter, any shareholder of the Greeley-Loveland irrigation company who holds a valid domestic water shareholder agreement with the city shall follow the procedures set forth in that contract.

(Ord. No. 39, 2019, exh. A, § 14.06.160, 9-17-2019)

Sec. 20-266. Water service outside the city limits.

The director of water and sewer may consider applications for extraterritorial water service from persons or entities located outside the city limits. Any such extraterritorial water service authorized shall be contingent upon receipt by the city of written consent to the service from the jurisdiction in which the extraterritorial customer is located, if so required. Any person or entity granted such extraterritorial water service shall agree to transfer when a request for city water is made, at no cost to the city, certain water rights, including Northern Colorado Water Conservancy District allotments, irrigation. Water and carriage rights of such water, to the city before receiving water service from the city.

(Ord. No. 39, 2019, exh. A, § 14.06.170, 9-17-2019)

Sec. 20-267. Transfer of water rights upon annexation.

Any petitioners requesting annexation of their land to the city shall agree, as a prerequisite to receiving approval of such annexation and on behalf of themselves and all successors in interest to the land to be annexed, to transfer, at no cost to the city, water rights, including Northern Colorado Water Conservancy District allotments, irrigation water and carriage rights upon subdividing and/or requesting domestic water service to the city, before receiving the approval of the annexation.

(Ord. No. 39, 2019, exh. A, § 14.06.180, 9-17-2019)

Sec. 20-268. Special agreements approved by city council.

The provisions of this chapter shall not preclude the city council from approving special agreements with applicants for water service regarding the requirements for development within the city.

(Ord. No. 39, 2019, exh. A, § 14.06.190, 9-17-2019)

Sec. 20-269. Meters required for water service; specifications and exceptions.

(a) It is unlawful for any person or entity to take, receive or use any water from the city waterworks for any purpose whatsoever, unless such water is measured through a meter. This requirement shall not apply to residential fire sprinkling lines which are two inches or less in diameter and which serve only the fire suppression system.

(b) Failure to install a meter before water is used is punishable under chapter 9 of title 1 of this Code and shall result in the water being turned off to the property until a meter is installed and all penalties and fines are paid in full.

(c) All meters installed shall be of a type, size and design approved by the director of water and sewer. There shall be only one meter for each water tap installed, and each meter shall be of the same size as the associated water tap. The director of water and sewer shall have the discretion to adjust meter size requirements based on AWWA standards.

(d) Each meter shall be placed under the direction of the director of water and sewer, and each new meter shall be installed outside in a code meter pit/vault. Each meter shall be supplied with a stopcock on the inlet side of the yoke. Existing meters inside buildings must have a stopcock on both sides of the meter. All meters shall be located where accessible for inspection and/or repair at any time during business hours. Meters previously installed inside buildings shall be relocated outside to code meter pits/vaults when the building is remodeled, plumbing systems are modified, accessibility becomes limited, or as otherwise directed by the director of water and sewer.

(Ord. No. 39, 2019, exh. A, § 14.06.200, 9-17-2019)

Sec. 20-270. Testing, maintenance and repair of meters.

(a) All new meters shall be tested before being installed. The director of water and sewer shall make periodic tests of water meters and order replacement or repair of meters as needed.

(b) The director of water and sewer shall maintain all meters for costumers being served and billed directly by the city. Property owners shall be responsible for any damage to meters and their appurtenances caused by abuse, negligence or vandalism.

(c) Property owners shall purchase new meters prior to reactivating service for vacant properties when the meters become obsolete or no longer meet AWWA standards for accuracy and performance.

(d) Property owners shall be responsible for the maintenance of meter pits/vaults and covers. Failure to make repairs when notified by the director of water and sewer shall result in the water being turned off until repairs are completed.

(Ord. No. 39, 2019, exh. A, § 14.06.210, 9-17-2019)

Sec. 20-271. Meter failure; computation of charges.

(a) If any meter fails to register in any billing period, the customer shall be charged based upon the average consumption for the same period in the two years immediately preceding the meter failure, and accordingly billed at the current rates. If a meter is tested in accordance with section 20-270 and be found to be inaccurate by five

percent or more, the customer's bill shall be adjusted as indicated by the test for the current billing period and the one immediately preceding billing period.

(b) In the event a particular customer account is found to have been misclassified, the city is authorized to make appropriate billing adjustments where warranted, based upon information obtained concerning the particular customer account.

(Ord. No. 39, 2019, exh. A, § 14.06.220, 9-17-2019)

Sec. 20-272. Consent to withdrawal of nontributary groundwater.

(a) All nontributary groundwater, including, but not limited to, waters of the Dawson, Denver, Arapahoe, Laramie-Fox Hills and Dakota aquifers, are incorporated into the city's actual service plan as authorized by C.R.S. § 37-90-137(8), the land area in the actual municipal service plan is all that area within the city boundary as of January 1, 1985, except that land north of the Cache La Poudre River. Public interest justifies the use of nontributary groundwater underlying the service area.

(b) Upon the effective date of the original ordinance codified in this section (January 21, 1986), the owners of all land in the service area shall be deemed to have consented to the withdrawal by the city of all such nontributary groundwater unless consent is withheld pursuant to the above described state statute.

(c) All applicants granted authorization for water service shall execute, as a prerequisite to such service, a consent agreement approving the withdrawal by the city of all nontributary groundwater as described herein from the land being served.

(Ord. No. 39, 2019, exh. A, § 14.06.230, 9-17-2019)

Secs. 20-273--20-292. Reserved.

~~CHAPTER 14.12~~ ARTICLE IV. SANITARY SEWERS

Division 1. In General

Sec. 20-293. Short title.

This chapter shall also be known as the Sanitary Sewer Chapter.

(Code 1994, § 14.12.005; Ord. No. 36, 2008, § 1, 8-19-2008)

Sec. 20-294. Purpose and policy.

(a) This chapter governs the use of public and private sewers and drains and the discharge of wastes into the city wastewater collections systems.

(b) The objectives of this chapter are:

(1) To prevent the introduction of pollutants into state waters.

(2) To protect the health, welfare and safety of the citizens of the city from the improper disposal of sanitary wastes, garbage or other objectionable wastes.

(c) This chapter complements chapter 5 of this title.

(Code 1994, § 14.12.010; Ord. No. 36, 2008, § 1, 8-19-2008)

Sec. 20-295. Definitions.

(a) Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251—1387.

Building drain means all of the building/plumbing/piping that conveys sanitary sewage from the building to a point five feet outside the foundation wall.

Building sewer means that portion of the sanitary sewer line that extends from five feet outside the foundation

wall to the public sewer, including the sewer tap on the public sewer or other point of discharge.

City means the City of Greeley, Colorado.

Direct discharge means discharge of treated or untreated wastewater directly to state waters.

Director, unless otherwise specified, means the director of the city water and sewer department or his authorized designee.

Discharge means any person who discharges or causes the discharge of domestic wastewater directly or indirectly to the publicly owned treatment works (POTW).

Domestic wastewater means a combination of liquid wastes (sewage) which may include chemicals, household wastes, human excreta, animal or vegetable matter in suspension or solution or other solids in suspension or solution which are discharged from a dwelling, building or other structure.

Environmental Protection Agency or *EPA* means the United States Environmental Protection Agency.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, the processing of food by-products, the processing of agricultural products and the handling, storage and sale of produce.

Individual (private) wastewater disposal system means a septic tank or similar self-contained receptacle or facility that collects and/or treats or otherwise disposes of domestic wastewater and which is not connected to the POTW.

Industrial wastewater or *nondomestic wastewater* means water carrying wastes from any process or activity of industry, manufacturing, trade or business, from development of any natural resource or from animal operations, or contaminated stormwater or leachate from solid waste facilities.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Off-premises sewer means a gravity public sanitary sewer constructed to serve a property that is not contiguous to an existing sewer and which crosses other private property or properties. The term "off-premises sewer" does not include a sewer in the interior or on the perimeter of the property initially served.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or other legal entity, or their legal representatives, agents or assigns. The term "person" includes all federal, state and local government entities.

Public sanitary sewer means a sewer in which all owners of abutting properties have equal rights, which is placed in a public right-of-way or dedicated easement, which was constructed according to city specifications for public sanitary sewers applicable at the time of its installation or accepted as substantially equivalent in writing by the city.

Publicly owned treatment works (POTW) means the treatment works as defined by section 212 of the Act (33 U.S.C. § 1292) that is owned by the city. The term "publicly owned treatment works (POTW)" includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of domestic or nondomestic wastewater and any conveyances that carry such wastewater but excludes the building drain and building sewer.

Sanitary sewer means a pipe, conduit and appurtenances to which storm, surface and groundwaters are not intentionally admitted, for the collection, transportation, pumping and treatment of domestic and nondomestic wastewater.

Storm sewer means a sewer designed to carry only stormwaters, surface runoff, street wash waters and drainage.

Stormwater means stormwater runoff, snow melt runoff and surface runoff and drainage.

Subdivider or *developer* means any person who develops plans to improve, or who improves, undeveloped land for the purpose of industrial, commercial or residential use; or who redevelops land or property for industrial, commercial or residential use.

User means any person who contributes, causes or permits the contribution of wastewater into the city's

POTW.

(a) The following abbreviations, when used in this chapter, shall mean:

~~CRS Colorado Revised Statutes~~

CWA means Clean Water Act, U.S.C. § 1251—1387.

EPA means U.S. Environmental Protection Agency.

POTW means publicly-owned treatment works.

U.S.C. means United States Code.

(Code 1994, § 14.12.020; Ord. No. 36, 2008, § 1, 8-19-2008)

Sec. 20-296. Deposit of wastes unlawful.

It is unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner, upon public or private property within the city, or in any area under the jurisdiction of the city, any sanitary sewage, sewage sludges, industrial wastes or other polluted waters (including grey water) except in accordance with this chapter and the Act.

(Code 1994, § 14.12.030; Ord. No. 36, 2008, § 1, 8-19-2008)

Sec. 20-297. Connection prohibited.

Connection to the POTW is prohibited except in accordance with this chapter.

(Code 1994, § 14.12.040; Ord. No. 36, 2008, § 1, 8-19-2008)

Sec. 20-298. Disposal facilities to conform to chapter.

Except as provided in this chapter, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of domestic wastewater.

(Code 1994, § 14.12.050; Ord. No. 36, 2008, § 1, 8-19-2008)

Sec. 20-299. Connection to sanitary sewer required.

The owner of any houses, buildings or property used for human occupancy, employment, recreation or other purposes situated within the city and abutting any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is required, at his expense, to install suitable toilet facilities therein and connect such facilities directly with a proper public sanitary sewer in accordance with the provisions of this chapter within 90 days after date of receiving official notice to do so, provided that the public sanitary sewer is within 400 feet of the property. Where a public sanitary sewer is not available, the owner shall connect the building sewer to an individual wastewater disposal system that complies with applicable plumbing codes and county health department codes and regulations.

(Code 1994, § 14.12.060; Ord. No. 36, 2008, § 1, 8-19-2008)

Sec. 20-300. Violations; liability.

Any person violating any of the provisions of this chapter shall be liable to the city for any expense, loss or damage to the city by reason of such violation.

(Code 1994, § 14.12.330; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.320, 9-17-2019)

Sec. 20-301. Penalties.

Penalties for violating any provision of this chapter shall be ~~accessed~~ treated administratively in accordance with chapter 10 of title 1 of this Code.

(Code 1994, § 14.12.340; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 11, 2010, § 1, 4-20-2010; Ord. No. 39, 2019, exh. A, § 14.12.330, 9-17-2019)

Secs. 20-302--20-320. Reserved.

Division 2. Fees, costs and collection

Sec. 20-321. Public sanitary sewer connections and fees.

No person shall connect on to a public sanitary sewer line until the director has expressly approved such connection. Approval shall be granted to any person who desires sanitary sewer service for property in the city and who pays the fees and charges established by, and according to, sections 20-27 through 20-28 and 20-325 through 20-327.

(Code 1994, § 14.12.070; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.070, 9-17-2019)

Sec. 20-322. Conditions invoking reimbursement for connections to public sewer.

Property benefiting from sanitary service can be either contiguous or noncontiguous to the existing public sanitary sewer system. Noncontiguous development requires the construction of an off-premises sewer. The measurement of the off-premises sewer shall be from the point it departs the initially served property to the point of connection to the existing public system. All persons desiring sanitary sewer service for property abutting or in the drainage area of an off-premises sanitary sewer line shall be required to reimburse the party that built the sewer, if all of the following circumstances exist:

(1) The off-premises sewer was constructed according to city specifications and requirements with prior approval by the city, at the expense of one or more private persons.

(2) The person against whom the reimbursement is to be assessed requests approval for additional sewer line extensions or services that connect to the off-premises sewer either directly or indirectly within five years of the completion of the construction. The initial five-year period may be renewed for an additional five-year period by action of the water and sewer board upon petition by the person or persons who paid for such initial construction. The petition for renewal shall be prior to the lapse of a five-year period, or such renewal shall not be allowed.

(3) The property to be served by the sanitary sewer service was owned at the time of construction of the off-premises sewer by a person or persons who did not share the cost of construction.

(4) The property owners against whom the reimbursement may be assessed, or their predecessors in interest, were notified through certified mail by the initial developer of their opportunity to share the cost of construction of the off-premises sewer prior to such construction.

(5) A document is recorded for each property against whom the reimbursement is to be assessed that provides notice of the reimbursement due if that property receives future sewer service.

(Code 1994, § 14.12.080; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.080, 9-17-2019)

Sec. 20-323. Computation of reimbursement for connections to public sewer.

The area subject to the reimbursement procedure described in section 20-322 shall consist of land tracts that the director determines benefit from the off-premises sewer. The director shall proportionally allocate costs to the land area on a frontage, flow capacity, drainage area or other equitable basis if all conditions of section 20-322 are met. The director shall calculate the allocations on gross acreage if allocated on a drainage area basis and shall include all rights-of-way, stormwater facilities, parks and other private land that may be dedicated to public purposes within each tract. In each case, the director shall compute reimbursement by prorating the construction cost, without additional charges other than interest, against the property served by the off-premises sewer. The reimbursement shall be paid prior to the approval of plans for construction of additional sewer extensions or when service taps are requested, whichever comes first. The interest shall apply to the first five-year period, and it shall be equal to that of five-year U.S. treasury bills at the time of construction.

(Code 1994, § 14.12.090; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.090, 9-17-2019)

Sec. 20-324. Reimbursement procedure for private payment.

Private persons who pay to construct sections of public sanitary sewer and who desire partial reimbursement for such payment shall deliver a written document to the director setting forth the total construction cost and the

name and address of an individual, bank or other organization authorized to receive payments from the city pursuant to this chapter. The director shall consider for reimbursement only those sanitary sewer lines constructed with his prior approval and in strict accordance with city standards and specifications for sewer line construction. As extra charges are paid to the city pursuant to sections 20-322 and 20-323, the city shall transmit such payments to such authorized individual, bank or other organization. The city shall not recognize any recipients or claimants other than the authorized individual, bank or other organization. The city shall have no other organizational involvement and shall have no responsibility to see that such individual, bank or other organization properly manages such funds.

(Code 1994, § 14.12.100; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.100, 9-17-2019)

Sec. 20-325. Sewer plant investment fees.

The sewer plant investment fee shall be the minimum fee as approved by the water and sewer board, unless increased by resolution by the city council.

(Code 1994, § 14.12.110; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.110, 9-17-2019)

Sec. 20-326. Sewer plant investment fee credits and exchange; renovations.

(a) Any customer that seeks to abandon an existing water tap in favor of a smaller or larger tap to serve the same property shall be entitled to a credit against the sewer plant investment fee requirement set forth in section 20-325. Such credit shall be equal to the then current sewer plant investment fee value associated with the abandoned tap but shall not include credit for any fire flow diameter associated with the abandoned tap. Any credit issued for an abandoned tap pursuant to this section shall be capped at the sewer plant investment fee due and payable for the replacement tap; the city shall not be required to provide cash refunds for any such credit.

(b) Any customer that renovates one or more residential units that were constructed prior to January 20, 1959 and is accordingly required to replace an existing water tap that serves such residential units to comply with the current minimum tap size requirements established by the water and sewer board shall not be required to furnish an additional sewer plant investment fee if the renovation does not increase the number or size of the residential units, and the use of the subject property is not changed.

(Code 1994, § 14.12.120; Ord. No. 39, 2019, exh. A, § 14.12.120, 9-17-2019)

Sec. 20-327. Installation costs; advance payment required.

In addition to paying the plant investment fees provided for in section 20-325, the owner, lessee or user of any sanitary sewer service shall pay for all labor and materials required to installing the tap onto the sewer main, to install the service pipes and lines, and to perform all trenching and street repairs. All plant investment fees and installations costs shall be paid prior to commencing any work.

(Code 1994, § 14.12.140; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.130, 9-17-2019)

Sec. 20-328. Rates approved by water and sewer board.

The sewer rates for both inside and outside the city shall be the minimum rates annually established by the water and sewer board, unless increased by resolution of the city council.

(Code 1994, § 14.12.150; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.140, 9-17-2019)

Sec. 20-329. Billing; time tasks.

The director may compute bills for sewer service on either a flat rate or a metered rate. Bills computed on a flat rate basis may be rendered in advance.

(Code 1994, § 14.12.160; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.150, 9-17-2019)

Sec. 20-330. Due date; disconnection for nonpayment.

All bills for water and sewer are due and payable to the director of finance at his office in city hall on the dates specified. If bills are not paid on or before the specified due date, including payment of reconnection charges as provided in sections 20-157 and 20-158, the city may disconnect water service until the delinquent bills are paid.

(Code 1994, § 14.12.170; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.160, 9-17-2019)

Sec. 20-331. Lien status; liability of owners.

Bills for sewer service shall be a charge and lien upon the premises from which sewage is taken from the date the bill becomes due until paid, and the owner of every building, lot or house shall be liable for all sewage taken from his premises. The city may enforce such lien and liability through all available legal remedies. In case the tenant in possession of such premises or building pays the sewer rate, it shall relieve his landlord from such obligation and lien, but the city shall not be required to look to any person other than the owner for the payment of sewer rates provided for in this chapter.

(Code 1994, § 14.12.180; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.170, 9-17-2019)

Sec. 20-332. Interference with system unlawful.

It is unlawful for anyone to maliciously, willfully or negligently break, destroy, uncover, deface or tamper with any structure, appurtenance or equipment that is a part of the POTW.

(Code 1994, § 14.12.190; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.180, 9-17-2019)

Sec. 20-333. Right of entry.

The director, bearing proper credentials and identification, shall be permitted to enter upon all relevant properties to inspect, observe or otherwise address problems related to the public sanitary sewer.

(Code 1994, § 14.12.200; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.190, 9-17-2019)

Secs. 20-334--20-354. Reserved.

ARTICLE III. RESTRICTIONS AND REQUIREMENTS

Sec. 20-355. Registration of water wells.

The owner of any water wells within the city shall register such well with the water and sewer department. The owner shall provide the following information for each well: location; depth; casing, if any; production in gallons per minute; the date of completion; the type of use; and whether the well has been permitted by the state engineer.

(Code 1994, § 14.12.210; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.200, 9-17-2019)

Sec. 20-356. Prohibited discharges.

No person shall connect downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer, building drain or the POTW unless the director first approves such connection in writing.

(Code 1994, § 14.12.220; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.210, 9-17-2019)

Sec. 20-357. Construction of public sewers regulated.

No person shall construct a sanitary sewer main or service line within the city without prior written approval of the director. Such construction shall be performed in accordance with the requirements of the city's standard specifications for sanitary sewer main construction and the standard specifications for sanitary sewer service line construction, copies of which are available upon request.

(Code 1994, § 14.12.230; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.220, 9-17-2019)

Sec. 20-358. Public access to information.

All records, reports, data or other information supplied by any person as a result of the requirements of this chapter shall be available for public inspection upon written request, subject to the restrictions of C.R.S. §§ 24-72-201 through 24-72-206.

(Code 1994, § 14.12.240; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.230, 9-17-2019)

Sec. 20-359. Temporary sewer plugs; removal.

Any person responsible for installing temporary sewer plugs in the sanitary sewer system shall be responsible for removing such plugs when notified by the director. The notified person shall be responsible for all system

damages, environmental damages and costs and required notifications or reports that occur as a result of failing to remove sewer plugs after being properly notified.

(Code 1994, § 14.12.250; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.240, 9-17-2019)

Sec. 20-360. Construction over public sanitary sewers restricted.

No person shall construct any residential, commercial or industrial building over the public sewer lines or within the easements for public sanitary sewer mains without first obtaining written approval for such construction from the director.

(Code 1994, § 14.12.260; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.250, 9-17-2019)

Sec. 20-361. Maintenance of public and private sewers.

(a) The property owner, at his expense, shall install the service line from the property line to the structure to be served in accordance with section 20-322. The property owner shall hold the city harmless for any loss or damage that may directly or indirectly result from installing service line or the malfunction of any private sewer.

(b) The owner of any property connecting to the public sanitary sewer shall be responsible for maintaining the service line from the public sanitary sewer tap to the structure to be served. The owner shall keep the service line for which he is responsible in good condition and shall repair or replace at his expense any portions thereof which, in the reasonable opinion of the director, no longer function properly. The owner shall complete all repairs or replacements within 30 days after notification of the need for same by the director. The owner shall be responsible for returning the public right-of-way and the street to acceptable city standards as determined by the city.

(1) Failure to maintain the service line is a code ~~infraction~~ violation pursuant to chapter 10 of title 1 of this Code. Should the director determine that the owner of any property has failed to maintain the service line (including repair or replacement when needed), the director or the director's designee may issue a notice of violation in accordance with chapter 10 of title 1 of this Code.

(2) If the director determines that the failure of the property owner to maintain the service line (including repair or replacement when needed) poses an imminent risk to the health, safety or welfare of the community, the director may take action necessary to limit such risk, including, but not limited to, making entry on the property pursuant to section 20-85 or causing the shut-off or disconnection of the water supply.

(c) If the owner desires to disconnect his premises, he shall not be permitted to remove that portion of the service line between the main and the property line, but at his expense shall excavate, sever and tightly cap the service line from the property line to the premises, but shall leave in place all of the service line from the main to such cap. The city shall not approve new services to replace existing services until old service lines are excavated and properly capped. Such cap shall be sufficient to prevent the escaping of sewer gas or the infiltration of water and tree roots.

(Code 1994, § 14.12.270; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 11, 2010, § 1, 4-20-2010; Ord. No. 39, 2019, exh. A, § 14.12.260, 9-17-2019)

Sec. 20-362. Individual wastewater disposal system construction permit required.

Before commencing construction of an individual wastewater disposal system, the owner shall first obtain a written permit from the county department of public health and environment.

(Code 1994, § 14.12.280; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.270, 9-17-2019)

Sec. 20-363. Compliance with regulations required; discharges restricted.

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the International Plumbing Code. No person shall cause or allow a septic tank or cesspool discharge to any public sanitary sewer, storm sewer, storm drain or natural outlet.

(Code 1994, § 14.12.290; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.280, 9-17-2019)

Sec. 20-364. Maintenance and operation of facilities.

The owner shall operate and maintain the individual wastewater disposal in a sanitary manner at all times, in accordance with applicable requirements, at no expense to the city.

(Code 1994, § 14.12.300; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.290, 9-17-2019)

Sec. 20-365. Connection to available public sewer required.

The owner of an individual wastewater disposal system shall connect at his expense to the POTW in accordance with the provisions of this chapter when the public sanitary sewer runs within 400 feet of the owner's property line. Such owner shall then abandon at his expense any septic tanks, cesspools and similar private sewage disposal facilities and fill them with suitable material as required by county department of public health and environment.

(Code 1994, § 14.12.310; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.300, 9-17-2019)

Sec. 20-366. Additional requirements.

No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by county department of public health and environment or EPA. The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system as necessary to comply with the general purpose and policy presented in this chapter.

(Code 1994, § 14.12.320; Ord. No. 36, 2008, § 1, 8-19-2008; Ord. No. 39, 2019, exh. A, § 14.12.310, 9-17-2019)

Secs. 20-367--20-390. Reserved.

~~CHAPTER 14.11~~ ARTICLE IV. INDUSTRIAL PRETREATMENT

Division 1. In General

Sec. 20-391. Short title.

This chapter shall also be known as the Greeley Pretreatment Chapter.

(Code 1994, § 14.11.010; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-392. Abbreviations.

The following abbreviations, when used in this chapter, shall have the designated meanings:

BOD	Biochemical oxygen demand
BMP	Best management practices
Fº	Fahrenheit
Cº	Celsius
CDPS	Colorado discharge permit system
CIU	categorical industrial user
CFR	Code of Federal Regulations
EPA	United States Environmental Protection Agency
gpd	Gallons per day
mg/L	Milligrams per liter
O and M	Operation and maintenance
POTW	Publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
SIU	Significant industrial user

TSS	Total suspended solids
U.S.C	United States Code

(Code 1994, § 14.11.020; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 30, 2013, § 1, 10-15-2013)

Sec. 20-393. Purpose and policy.

This chapter establishes uniform requirements for dischargers to the POTW and enables the city to comply with relevant state and federal laws, including the Federal Water Pollution Control Act (33 U.S.C. §§ 1251—1387) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the city's POTW that will interfere with the POTW's operation;

(2) To prevent the introduction of pollutants into the city's POTW that will pass through the POTW, inadequately treated, into receiving waters, or that will otherwise be incompatible with the POTW;

(3) To protect both city personnel who may be affected by wastewater and biosolids in the course of their employment, and the general public;

(4) To promote reuse and recycling of wastewater and biosolids from the city's POTW;

(5) To establish and distribute equitably fees for the cost of operating, maintaining and improving the city's POTW; and

(6) To enable the city to comply with its CDPS permit conditions, biosolids use and disposal requirements, and other relevant federal and state laws.

(Code 1994, § 14.11.030; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-394. Applicability.

This chapter applies to all connections to the POTW, whether within or outside the city, and to all persons, whether within or outside the city, who are, by permit or otherwise, users of the POTW.

(Code 1994, § 14.11.040; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-395. Citation to federal regulations.

All citations in this chapter to the Code of Federal Regulations are to those federal regulations in effect on the date this chapter becomes law. This chapter does not incorporate later amendments or editions of the cited material.

(Code 1994, § 14.11.050; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-396. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC § 1251-1387.

Approval authority means the EPA Regional Administrator for Region VIII; or the state, if and when the state obtains primacy to administer its own pretreatment program under the Act.

Authorized representative of the user means:

(1) If the user is a corporation: the president, secretary, treasurer or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively; or

(3) If the user is a federal, state or local governmental entity: a director or highest level official appointed or designated to oversee the operation and performance of the activities of the government entity.

The individuals described in subsections (1) through (3) of this definition may designate another authorized representative if the authorization is in writing and is submitted to the city. The authorization shall specify either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager or a position of equivalent responsibility or having overall responsibility for environmental matters for the company.

Best management practices or *BMPs* means schedules of activities, maintenance policies and other management procedures that prevent or reduce the discharge of pollutants into the POTW, and that implement the prohibitions listed in section 20-421. Best management practices include pretreatment requirements, operating procedures and practices to control plant site runoff, spills, leaks, waste disposal and drainage from raw material storage.

Biochemical oxygen demand or *BOD* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/L).

Categorical pretreatment standard or *categorical standard* means any regulation containing discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 USC § 1317(b) and (c)), which applies to a specific category of users, and which appears in 40 CFR Parts 405—471. The term "categorical pretreament standard" or "categorical standard" includes prohibited discharge standards.

~~*City*. The City of Greeley.~~

Composite sample means a sampling procedure defined in 40 CFR Part 403, Appendix E--Sampling Procedures, I. Composite Method.

Control authority means the POTW.

Department means the city water and sewer department.

Director means the director of the city water and sewer department or his authorized designee.

Domestic wastewater means a combination of liquid wastes (sewage) which may include household chemicals, household wastes, human excreta, animal or vegetable matter in suspension or solution or other solids in suspension or solution which are discharged from a dwelling, building or other structure. The term "domestic wastewater" does not include commercial or industrial wastewater, or grease removed from a restaurant grease trap.

Environmental Protection Agency or *EPA* means the United States Environmental Protection Agency.

Existing source means any source of discharge that is not a new source.

General permit means an authorization to discharge pollutants to the POTW which covers multiple users within a specific sector in accordance with the requirements of the Act and this chapter.

Grab sample means a sampling procedure defined in 40 CFR Part 403, Appendix E--Sampling Procedures, II. Grab Method.

Hauled portable toilet wastewater means the liquid or solid material removed from a portable toilet that holds only domestic wastewater (not the portable toilet chemicals or matrix itself).

Indirect discharge or *discharge* means the introduction of pollutants into the POTW from any nondomestic source.

Industrial wastewater or *nondomestic wastewater* means water carrying wastes from any process or activity of industry, manufacturing, trade or business, from development of any natural resource, or from animal operations, or contaminated stormwater or leachate from solid waste facilities.

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any grab or composite sample, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge that, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Contributes to a violation of any requirement of the city's CDPS permit (including an increase in the magnitude or duration of a violation), or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including title II, commonly referred to as RCRA; any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act; the Clean Air Act; and the Toxic Substances Control Act.

New source means:

(1) Any building, structure, facility or installation from which there is (or may be) a discharge, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act that will apply to such source if such standards are thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility or installation is constructed at a site at which no other source is located;

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, the city will consider such factors as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)a or (1)c of this section, but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous onsite construction program:

1. Any placement, assembly or installation of facilities or equipment; or

2. Significant site preparation work including clearing, excavating or removing existing buildings, structures or facilities that is necessary to place, assemble or install new source facilities or equipment; or

b. Entered into a binding contract for the purchase of facilities or equipment intended for use in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a binding contract for the purpose of this subsection.

Noncontact cooling water means water used for cooling that does not directly contact any raw material, intermediate product, waste product or finished product.

Pass through means a discharge from the POTW into state waters in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, causes or contributes to a violation of any requirement of the city's CDPS permit, including an increase in the magnitude or duration of a violation.

Person means an individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or their legal representatives, agents or assigns. This definition includes all federal, state and local government entities.

pH means a measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial waste and certain characteristics of wastewater (such as pH, temperature, TSS, turbidity, color, BOD, toxicity or odor).

Pretreatment means the reduction in the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to introducing such pollutants into the POTW. The user may obtain this reduction or alteration by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants allowed by an applicable pretreatment standard. Appropriate pretreatment technology includes control equipment such as equalization tanks or facilities for protection against surges or slug loads that might interfere with or otherwise be incompatible with the POTW. Where wastewater from a regulated process is mixed with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated limit using the combined waste stream formula in 40 CFR § 403.6(e).

Pretreatment requirement means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standard or *standard* means any prohibited discharge standard, categorical pretreatment standard or local limit.

Pretreatment supervisor means the individual who oversees and administers the pretreatment program for the POTW.

Prohibited discharge standard or *prohibited discharge* means an absolute prohibition against the discharge of certain substances; these prohibitions appear in section 20-421.

Publicly-owned treatment works or *POTW* means the treatment works, as defined by section 212 of the Act (33 U.S.C. § 1292), that is owned by the city. The definition of the term "publicly-owned treatment works" or "POTW" includes any devices or systems used in the collection, storage, treatment, recycling or reclamation of domestic or nondomestic wastewater and any conveyances that carry such wastewater. POTW also means the city.

Satellite waste dump site means a designated location directly connected to the POTW that is permitted to accept hauled portable toilet wastewater or nonhazardous wastewater and nondomestic wastewater.

Sector means users that engage in similar activities and discharge similar pollutants. Examples of similar activities that produce similar pollutants may include, but are not limited to, food service establishments or processors that commonly discharge fats, oils and grease; transportation vehicle repair, maintenance and washing facilities that commonly discharge petroleum oil, grease and sand; photographic or x-ray processing facilities or operations that commonly discharge silver; dental offices that commonly discharge mercury; and healthcare facilities that often have new or emerging contaminants.

Significant industrial user or *SIU* means:

(1) A user subject to a categorical pretreatment standard under 40 CFR § 403.6 and 40 CFR chapter I, subchapter N; or

(2) A user that:

   a. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

   b. Contributes a process waste stream that makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

   c. Is designated as such by the city on the basis that the user has a reasonable potential to adversely affect the POTW's operation or to violate any pretreatment standard or requirement.

(3) The city may determine that an industrial user subject to a categorical pretreatment standard under 40 CFR § 403.6 and 40 CFR chapter I, subchapter N, is a nonsignificant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gpd

of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

a. The industrial user, prior to the city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

b. The industrial user annually submits the certification statement required in section 20-534(b), together with additional information necessary to support the certification statement; and

c. The industrial user never discharges any untreated concentrated wastewater.

(4) Upon a finding that a user meeting the criteria in subsubsection (3) of this definition has no reasonable potential to adversely affect the POTW's operation or to violate any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR § 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug load or *slug* means any discharge at a flow rate or concentration that could violate the prohibited discharge standards of section 20-421 or the local limits of section 20-424, or which has the reasonable potential to cause interference or pass through.

Stormwater means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Total suspended solids (TSS) means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquid and which is removable by laboratory filtering.

User or *industrial user* means a source of indirect discharge.

Wastewater means liquid and water-carried industrial and domestic waste from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, that is contributed to the POTW.

Wastewater discharge permit means an individual wastewater discharge permit or a general permit giving authorization to discharge pollutants to the POTW in accordance with the requirements of the Act and this chapter.

Wastewater treatment plant or *treatment plant* means that portion of the POTW designed to treat wastewater.

(Code 1994, § 14.11.060; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 30, 2013, § 1, 10-15-2013)

Secs. 20-397--20-420. Reserved.

Division 2. Standards and Regulations

Sec. 20-421. Prohibited discharge standards.

The following general and specific prohibitions apply to all users of the POTW, whether or not they are subject to categorical pretreatment standards, or any other national, state or local pretreatment standard or requirement.

(1) *General prohibition*. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference.

(2) *Specific prohibitions*. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

a. Any liquid, solid or gas that creates, singly or by interaction with other substances, a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR § 261.21;

b. Wastewater having a pH less than 5.5 or greater than 11.5, or that may otherwise corrode POTW structures or equipment;

c. Solid or viscous substances in amounts that will obstruct the flow in the POTW, hinder POTW operations or cause POTW interference;

d. Wastewaters containing sand or other inorganic particulate matter that will result in a settleable solids concentration greater than 25 milliliters per liter in the user's discharge;

e. Pollutants, including oxygen-demanding pollutants (BOD, etc.), discharged at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference;

f. Wastewater of a temperature sufficient to damage the POTW collection system, or inhibit biological activity in the POTW treatment plant (resulting in interference) or that causes the temperature of the entire wastewater stream to exceed 104 degrees Fahrenheit (40 degrees Celsius) at the entry point to the treatment plant;

g. Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass through;

h. Pollutants that cause toxic gases, vapors or fumes within the POTW in a quantity that may cause worker health or safety problems;

i. Trucked or hauled pollutants, except at a discharge point designated by the director in accordance with sections 20-434;

j. Noxious or malodorous liquids, gases, solids or other wastewaters that, either singly or by interaction with other wastes, create a public nuisance or a human health hazard, or prevent entry into the sewers for maintenance or repair;

k. Wastewater that imparts color that cannot be removed by the treatment process (such as, but not limited to, dye wastes and vegetable tanning solutions), which consequently imparts color to the POTW's effluent, thereby violating the city's CDPS permit;

l. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

m. Stormwater, surface water, ground water, artesian well water, roof runoff and subsurface drainage, unless specifically authorized in writing by the director;

n. Sludges, screenings or other residues from the pretreatment of industrial wastes;

o. Wastewater causing, alone or in conjunction with other sources, the POTW's effluent to fail a toxicity test;

p. Detergents, surface-active agents or other substances that may cause excessive foaming in the POTW;

q. Fats, oils or greases of animal or vegetable origin in concentrations that cause blockages, flow obstructions or interference;

r. Wastewater causing two readings on a combustible gas detection meter at any point in the POTW, of more than five percent, or any single meter reading over ten percent of the lower explosive limit;

s. Chemical treatments used for controlling solidified grease in sewer lines or grease interceptors that cause pass through of grease or obstruction of flow in the POTW, except in accordance with written authorization from the director;

t. Unused or expired pharmaceuticals, including, but not limited to, prescription and over-the-counter medications.

No person shall process or store any pollutant, substance or wastewater prohibited by this chapter in such a manner that it could be discharged to the POTW.

(Code 1994, § 14.11.070; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 31, 2011, § 1, 9-20-2011; Ord. No. 30, 2013, § 1, 10-15-2013; Ord. No. 39, 2014, § 1(exh. A), 12-16-2014)

Sec. 20-422. National categorical pretreatment standards.

(a) The categorical pretreatment standards found at 40 CFR, Parts 405—471 are hereby incorporated in this

chapter. Users must comply with applicable categorical pretreatment standards and requirements.

(b) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with 40 CFR § 403.6(c).

(c) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined waste stream formula in 40 CFR § 403.6(e).

(d) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR § 403.13, that factors relating to its discharge differ fundamentally from the factors that EPA considered in developing the categorical pretreatment standard.

(e) A user may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with 40 CFR § 403.15.

(f) Each user shall be knowledgeable of all regulations applicable to the user. The director shall make reasonable efforts to notify all affected users of applicable standards and reporting requirements under 40 CFR § 403.12. Failure of the director to notify an affected user, however, does not relieve the user of complying with appropriate categorical pretreatment standards or applicable reporting requirements.

(Code 1994, § 14.11.080; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-423. Deadline for compliance with applicable pretreatment requirements and standards.

Existing sources shall comply with applicable categorical pretreatment standards within three years of the effective date for the standard unless the standard specifies a shorter compliance period. The city shall establish a final compliance deadline for any existing user not covered by categorical pretreatment standards, or for any categorical user whose local limits are more restrictive than the categorical pretreatment standards. new sources and new users must comply with applicable pretreatment standards and requirements upon initial discharge. new sources and new users shall install, have operable and start up all pollution control equipment required to meet applicable pretreatment standards and requirements before beginning to discharge.

(Code 1994, § 14.11.090; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-424. Local limits.

(a) The city has established the following local limits to prevent pass through and interference and to protect beneficial use of biosolids:

Table 14.11-A. Total Metals and Conventional Pollutants

Pollutant/Pollutant Property	*Daily Maximum Allowable Industrial Loading, lbs./day*
Arsenic, Total	0.527
Cadmium, Total	0.316
Chloride	17,082.000
Chromium, Hexavalent	7.978
Copper, Total	6.241
Cyanide, Total	1.170
Lead, Total	1.528
Mercury, Total	0.009
Molybdenum, Total	1.354
Nickel, Total	4.728

Selenium, Total	1.114
Silver, Total	4.436
Zinc, Total	11.711
BOD	14,173.000
TSS	13,176.000

Table 14.11-B. Total BTEX (Benzene, Toluene, Ethylbenzene and Xylenes) and Benzene

Pollutant/Pollutant Property	*Instantaneous Grab, ug/L*
BTEX	750
Benzene	50

(b) The city will allocate the daily maximum allowable industrial loading among significant industrial users through wastewater discharge permits. The total mass of pollutants allocated to significant industrial users shall not exceed the maximum allowable industrial loading. Allocation of the POTW's maximum allowable industrial loading among all significant industrial users shall be based upon consideration of discharge volume, flow rate or equitable but feasible distribution.

(c) In addition, the director may develop specific discharge limitations for any other toxic or inhibiting pollutant as necessary to prevent interference, pass through, danger to the health and safety of POTW personnel or the general public, environmental harm, a POTW permit violation, or to avoid rendering the POTW's biosolids unacceptable for economical reclamation, disposal or use.

(Code 1994, § 14.11.100; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 31, 2011, § 1, 9-20-2011; Ord. No. 30, 2013, § 1, 10-15-2013; Ord. No. 12, 2014, § 1, 8-5-2014)

Sec. 20-425. City's right of revision.

The limitations in section 20-424 are intended to prevent pass through and interference and to ensure receiving water and biosolids quality. The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent limitations, if necessary, to achieve such protections.

(Code 1994, § 14.11.110; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-426. Dilution prohibition.

No user shall ever increase the use of process water, or otherwise attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on users who use dilution, pursuant to an applicable pretreatment standard or requirement or in other cases when the imposition of mass limitations is appropriate.

(Code 1994, § 14.11.120; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-427. Best management practices.

The director may require any user to implement BMPs as necessary to ensure compliance with this chapter.

(Code 1994, § 14.11.130; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-428. Sector control programs.

The director may establish sector control programs to control specific pollutants as necessary to meet the objectives of this chapter for users that engage in similar activities and discharge similar pollutants. The director shall establish policies for each sector control program. users subject to these sector control programs may be

required to install and operate wastewater pretreatment systems and/or implement best management practices and may be required to apply for a wastewater discharge permit.

(Code 1994, § 14.11.135; Ord. No. 30, 2013, § 1, 10-15-2013)

Sec. 20-429. False or misleading information.

A user shall not knowingly make a false statement, representation or certification in any record, report, plan or other documentation filed, or required to be maintained, pursuant to this chapter, the user's wastewater discharge permit or order issued hereunder.

(Code 1994, § 14.11.140; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-430. Tampering with monitoring devices or methods.

No person shall tamper, falsify or knowingly render inaccurate any monitoring device or method required under this chapter, a wastewater discharge permit or an order issued hereunder.

(Code 1994, § 14.11.150; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-431. Pretreatment facilities.

Users shall construct, operate and maintain all facilities necessary to comply with this chapter and applicable categorical pretreatment standards and requirements, within the applicable time limitations specified by the EPA, the state or the director. The user shall submit detailed plans describing such facilities and operating procedures to the director for review prior to commencing construction. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter. Notwithstanding the city's review of a user's facilities and operating procedures under this chapter, it shall be the user's sole responsibility to construct its facilities and implement operating procedures necessary to comply with applicable requirements.

(Code 1994, § 14.11.160; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 30, 2013, § 1, 10-15-2013)

Sec. 20-432. Additional pretreatment measures.

(a) Whenever the director finds it necessary to protect the POTW or to accurately assess a user's compliance with this chapter, he may require a user to restrict its discharge during peak flow periods, discharge only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams or take other relevant measures.

(b) The director may require users to install and maintain on their property a suitable storage and flow-control facility to ensure equalization of flow. The city may issue a wastewater discharge permit solely for flow equalization.

(c) The user shall install grease, oil and sand interceptors when, in the opinion of the director, they are necessary to properly handle wastewater containing excessive amounts of grease, oil or sand. All interceptors shall be of the type and capacity specified in the city's building code. users shall locate all interceptors so they are easily accessible for cleaning and inspection. The user shall inspect, clean, maintain and repair as needed all interceptors at its expense. The user shall make available for inspection by the director all cleaning and maintenance records for a minimum of three years.

(d) The director may require users with the potential to discharge flammable substances to install and maintain an approved combustible gas detection meter at a point prior to discharge to the POTW.

(e) The user shall calibrate all devices used to measure wastewater flow for billing purposes to ensure their accuracy as outlined in the city's wastewater flow meter accuracy verification guidelines. A copy of such guidelines is available from the director.

(Code 1994, § 14.11.170; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 30, 2013, § 1, 10-15-2013)

Sec. 20-433. Accidental discharge/slug control plans.

(a) The director shall evaluate whether an industrial user needs an accidental discharge/slug control plan. Such evaluations must be documented in the administrative file. The director may require any user to develop,

submit for approval and implement such a plan. Any requirement to develop and implement a slug control plan shall be included in the user's wastewater discharge permit. An accidental discharge/slug control plan shall contain, at a minimum, the following:

(1) A description of discharge practices including non-routine batch discharges;

(2) A description of stored chemicals;

(3) Procedures for immediately notifying the director of any accidental or slug discharge, as required by section 20-478(a); and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures must address inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and measures and equipment for emergency response.

(b) An SIU shall notify the director immediately of any changes at its facility affecting the potential for a slug discharge.

(Code 1994, § 14.11.180; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-434. Hauled portable toilet wastewater.

(a) A user may introduce hauled portable toilet wastewater into the POTW only in accordance with its permit.

(b) Hauled portable toilet wastewater shall comply with all relevant provisions of this chapter, including, but not limited to, section 20-421.

(c) All portable toilet wastewater haulers shall obtain wastewater discharge permits. Portable toilet wastewater haulers must submit a waste manifest form for every load.

(Code 1994, § 14.11.190; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 31, 2011, § 1, 9-20-2011; Ord. No. 30, 2013, § 1, 10-15-2013)

Sec. 20-435. Satellite waste dump sites.

(a) Satellite waste dump site operators must obtain a wastewater discharge permit prior to introducing wastewater to the POTW.

(b) Satellite waste dump site operators shall comply with all relevant provisions of this chapter, including, but not limited to, section 20-421.

(c) Satellite waste dump site operators must maintain records for all loads disposed of at their site. Such records shall include, at a minimum, the name of the hauler, the hauler's vehicle, the license number, the volume of waste and the hauler's certification that the waste is not RCRA hazardous. satellite waste dump site operators shall submit such records to the director as required by their permit.

(Code 1994, § 14.11.210; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 30, 2013, § 1, 10-15-2013)

Sec. 20-436. Wastewater analysis.

When requested by the director, a user must submit information on the nature and characteristics of its wastewater within 45 days of the request.

(Code 1994, § 14.11.220; Ord. No. 35, 2008, § 1, 8-19-2008)

Secs. 20-437--20-455. Reserved.

Division 3. Permitting

Sec. 20-456. Requirement to obtain wastewater discharge permit.

(a) All SIUs shall obtain a wastewater discharge permit from the director prior to any discharge to the POTW.

(b) The director may require other users to obtain a wastewater discharge permit as necessary to accomplish the purposes of this chapter.

(c) Any violation of the terms and conditions of a wastewater discharge permit shall constitute a violation of this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all applicable federal and state pretreatment standards or requirements, or with any other applicable requirements of federal, state and local law.

(Code 1994, § 14.11.230; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-457. Wastewater discharge permitting; existing connections.

An existing discharger that becomes newly subject to permitting requirements under this chapter, and that does not currently have a wastewater discharge permit, may continue to discharge to the POTW until its timely permit application is processed, provided that its discharge does not cause interference or pass through. In order to qualify under this provision, the discharger must submit its application within ten business days of notification by the director of the permitting requirement.

(Code 1994, § 14.11.240; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-458. Wastewater discharge permitting; new connections.

Any user required to obtain a wastewater discharge permit that proposes to begin or recommence discharging into the POTW shall obtain such permit prior to beginning or recommencing its discharge. The user shall file an application for a wastewater discharge permit in accordance with section 20-459 at least 90 days prior to the date upon which such discharge will begin or recommence.

(Code 1994, § 14.11.250; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-459. Wastewater discharge permit application.

All users required to obtain a wastewater discharge permit must submit a permit application. users that are eligible may request a general permit under section 20-460. Such application shall include the following information for the premises from which the discharge will occur:

(1) All information required by section 22-237(b);

(2) A description of activities, facilities and plant processes, including a list of all raw materials and chemicals used or stored on the premises that will, or could accidentally or intentionally, be discharged to the POTW;

(3) The number and type of employees and proposed or actual hours of operation;

(4) Each product to be produced by type, amount, process or processes and rate of production;

(5) The type and amount of raw materials to be processed (average and maximum per day);

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains and appurtenances by size, location and elevation, and all points of discharge;

(7) Facility contact information;

(8) Time and duration of the discharge; and

(9) Any other information that the director deems necessary to evaluate the wastewater discharge permit application. The director will return unprocessed to the user all incomplete or inaccurate applications.

(Code 1994, § 14.11.260; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 30, 2013, § 1, 10-15-2013)

Sec. 20-460. Wastewater discharge permitting; general permits.

(a) At the discretion of the director, the director may use general permits to control industrial user discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations;

(4) Require the same or similar monitoring; and

(5) In the opinion of the director are more appropriately controlled under a general permit than under individual wastewater discharge permits.

(b) To be covered by the general permit, the user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with subsection 20-473(b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the director has provided written notice to the user that such a waiver request has been granted in accordance with subsection 20-473(b).

(c) The director will retain a copy of the general permit, documentation to support the POTW's determination that a specific user meets the criteria in subsections (a)(1) through (5) of this section and applicable state regulations, and a copy of the user's written request for coverage for three years after the expiration of the general permit.

(d) The director may not control an SIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the combined waste stream formula in subsection 20-422(c) or net/gross calculations in subsection 20-422(e).

(Code 1994, § 14.11.265; Ord. No. 30, 2013, § 1, 10-15-2013)

Sec. 20-461. Wastewater discharge permit decisions.

The director will evaluate the data furnished by the user in its application and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit.

(Code 1994, § 14.11.270; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-462. Issuance of draft wastewater discharge permits.

If the director determines that a wastewater discharge permit is appropriate, he will first issue a draft permit for review. Notice of the availability of the draft shall be posted in the same manner as other public notices. The user and the public shall have 30 days to submit written comments on the draft permit. The director shall issue a final permit within 15 days of the close of the 30-day comment period.

(Code 1994, § 14.11.280; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-463. Wastewater discharge permit decision appeals.

Any person, including the user, may petition the director to reconsider the terms of a wastewater discharge permit (administrative appeal) within 30 days of the effective date of the final permit or the decision not to issue a permit.

(1) Failure to submit a written petition for review within such 30-day period shall constitute a waiver of the right to the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection and the alternative condition, if any, it seeks to place in the permit. Except for provisions that change from the draft to the final permit, the petitioner may only appeal those issues it raised during the public comment period.

(3) Only the challenged portions of the final wastewater discharge permit shall be stayed pending an appeal.

(4) Failure of the director to act within 20 days of receiving a written petition for review shall constitute denial of the petition.

(5) Aggrieved parties may seek review of the director's wastewater discharge permit decision by filing a request with the director within 30 days of the date of his final decision asking that the director's written

decision be sent to the water and sewer board. The director shall submit his written decision to the water and sewer board within 30 days of receiving the request. The water and sewer board shall make its decision based on the administrative record.

(6) Aggrieved parties seeking review of the water and sewer board's wastewater discharge permit decision must do so by filing a request for hearing with the administrative hearing officer, as authorized by ~~section 3-11 of~~ the city Charter, within 30 days after the decision of the board. Such review shall be de novo, and the administrative hearing officer's decision shall be final. administrative hearing officer decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit or not to modify a wastewater discharge permit shall be considered the final administrative action for the purposes of judicial review.

(7) Any appeal from the decision of the administrative hearing officer shall be to the appropriate court pursuant to C.R.C.P. 106.

(Code 1994, § 14.11.290; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-464. Wastewater discharge permit contents.

The director shall include such conditions in the permit that he determines are reasonably necessary to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect POTW worker health and safety, facilitate biosolids management and disposal and protect against damage to the POTW.

(1) Wastewater discharge permits shall:

a. Identify the permit term, which in no event shall exceed five years;

b. Contain a statement that the permit is nontransferable without prior notification to the director in accordance with section 20-467, and provisions for furnishing the new owner or operator with a copy of the existing permit;

c. Contain effluent limits, including BMPs, based on applicable pretreatment standards and requirements;

d. Contain self-monitoring, sampling, reporting, notification and record-keeping requirements, which shall include the pollutants or BMP to be monitored, sampling location, sampling frequency, sample type and analysis method based on federal, state and local law;

e. Contain requirements to control slug discharges, if determined by the director to be necessary;

f. Contain a statement of applicable civil and criminal penalties for violating pretreatment standards and requirements; and

g. Contain any applicable compliance schedule, which shall not extend the time for compliance beyond that required by applicable federal, state or local law.

(2) Wastewater discharge permits may contain the following:

a. Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization;

b. Requirements to install, operate and maintain pretreatment technology, pollution control or containment devices to reduce, eliminate or prevent the introduction of pollutants into the POTW;

c. Requirements to develop and implement spill control plans or other special conditions necessary to prevent accidental, unanticipated or no routine discharges;

d. Requirements to develop and implement waste minimization plans to reduce the amount of pollutants discharged to the POTW;

e. The unit charge or schedule of user charges and fees for treating wastewater discharged to the POTW;

f. Requirements to install and maintain inspection and sampling facilities or other equipment,

including flow measurement devices;

g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility to comply with all applicable federal and state pretreatment standards, including those that become effective during the term of the wastewater discharge permit; and

h. Other conditions that the director deems necessary to ensure compliance with this chapter and state and federal requirements.

(Code 1994, § 14.11.300; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-465. Wastewater discharge permit duration.

A wastewater discharge permit shall be issued for a specified term, not exceeding five years from the effective date of the permit. The director may issue a wastewater discharge permit for a term less than five years.

(Code 1994, § 14.11.310; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-466. Wastewater discharge permit modification.

(a) The director may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised federal, state or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(4) Information indicating that the permitted discharge may threaten the POTW, human health or the environment;

(5) Violation of any terms or conditions of the permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the permit application or in any required reporting;

(7) Revision of categorical pretreatment standards, or a variance there from under 40 CFR § 403.13;

(8) To correct typographical or other errors in the permit; or

(9) To reflect a transfer of facility ownership or operation to a new owner or operator.

(b) A user may seek review of a permit modification and request an administrative appeal hearing within ten days following issuance of modifications. The administrative appeal hearing shall be conducted according to procedures described in section 20-463.

(Code 1994, § 14.11.320; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-467. Wastewater discharge permit transfer.

A wastewater discharge permit holder may transfer its permit to a new owner or operator only if the permittee gives at least 60 days' advance notice to the director, and the director approves the permit transfer in writing. The notice to the director must include a written certification by the new owner or operator that:

(1) The new owner and/or operator acknowledges receipt of a copy of the existing permit;

(2) The new owner and/or operator has fully read and understands the permit conditions and accepts full responsibility for complying with the existing permit;

(3) The new owner and/or operator has no immediate intent to change the facility's operations and processes; and

(4) Identifies the specific date of transfer.

Upon approval of the wastewater discharge permit transfer, the director shall reissue the transferred permit in the name of the new owner and/or operator.

(Code 1994, § 14.11.330; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 31, 2011, § 1, 9-20-2011; Ord. No. 39, 2014, § 1(exh. A), 12-16-2014)

Sec. 20-468. Wastewater discharge permit suspension or revocation.

The director may suspend or revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to provide prior notification to the director of changed conditions pursuant to section 20-477;

(2) Misrepresentation or failure to fully disclose all relevant facts in the permit application;

(3) Falsifying monitoring reports;

(4) Tampering with monitoring equipment;

(5) Refusing to allow the director timely access to the facility premises and records;

(6) Failure to pay fines;

(7) Failure to pay sewer charges;

(8) Failure to meet compliance schedules;

(9) Failure to complete a wastewater survey or timely permit renewal application;

(10) Failure to provide advance notice of the transfer of business ownership of a permitted facility as required by section 20-467; or

(11) Violation of any pretreatment standard or requirement, or any terms of the permit or this chapter.

Wastewater discharge permits shall be voidable upon cessation of operations. All wastewater discharge permits are void upon the issuance of a new replacement wastewater discharge permit. The permittee may appeal the voiding of a permit within ten days of notice that the permit is void. This appeal may be taken pursuant to section 20-463.

(Code 1994, § 14.11.340; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-469. Suspension or revocation of permit; duration.

If the director finds cause for suspension or revocation of a wastewater discharge permit, either under the terms of section 20-468 or any other section of this chapter, the director shall determine whether to revoke the permit for the remainder of its term or to suspend it for any shorter period. Such determination shall be based on the severity of the violation, the effects on public health, safety and welfare and the time during which the violation can be remedied, if at all.

(Code 1994, § 14.11.350; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-470. Suspension or revocation of permit; appeal; emergency suspension.

(a) Upon determination by the director of just cause under the terms of this chapter to suspend or revoke a wastewater discharge permit, the user shall be sent, by certified mail or personal delivery service, written notice of termination of POTW service.

(b) The user may elect to appeal such determination, in which event such user shall, within ten days of the date of mailing or service, notify in writing, the director of intent to appeal, specifying the particular section of the determination contested and the basis thereof. The appeal shall be conducted according to procedures described in section 20-463.

(c) The suspension or revocation of the permit shall be stayed pending the appeal hearing unless the director determines that the suspension is necessary to prevent an imminent danger to the public health, safety or welfare, or interference with the operation or treatment abilities of the POTW. The director may include in the temporary suspension reasonable orders or conditions with which the permittee shall comply to protect the public health and safety.

(1) Any user notified to suspend its discharge shall immediately stop or eliminate its contribution. If a user fails to immediately comply voluntarily with the suspension order, the director may take all necessary steps, including immediate severance of the water or sewer connection, to prevent or minimize damage

to the POTW, its receiving stream or danger to any individuals. The director may allow the user to recommence its discharge when the user demonstrates to the director that the threat has been satisfactorily resolved, unless the director initiates termination proceedings against the user under section 20-519.

(2) A user wholly or partly responsible for any discharge that is ordered suspended under this section shall, within five days of receiving such order, submit to the director a detailed written report describing the causes of the harmful situation and the measures taken to prevent any future occurrence.

(d) Any breach of the conditions or orders of an emergency suspension is an independent ground for revocation of the permit, assessment of a penalty or both.

(Code 1994, § 14.11.360; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-471. Wastewater discharge permit reissuance.

A user with an expiring wastewater discharge permit shall apply for permit reissuance by submitting a complete permit application a minimum of 90 days prior to the expiration of the user's existing permit.

(Code 1994, § 14.11.370; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-472. Regulation of waste received from other jurisdictions.

If another governmental entity or user outside of the city's jurisdictional boundary contributes wastewater to the POTW, the director shall rely on one or more of the following to ensure compliance with the terms of this chapter:

(1) Extra-jurisdictional enforcement authority to the extent permitted by law.

(2) Intergovernmental agreement with the other jurisdiction.

(3) Wastewater discharge permit with the specific user.

(Code 1994, § 14.11.380; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-473. Baseline monitoring reports.

(a) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR § 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report containing the information listed in subsection (b) of this section. At least 90 days prior to commencing their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report containing the information listed in subsection (b) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall estimate the anticipated flow and quantity of pollutants it will discharge.

(b) Each user described in subsection (a) of this section shall submit a report containing the following information:

(1) *Identifying information*. The name and address of the facility, including the name of the operator and owner.

(2) *Contact information, description of activities, facilities and plant production processes on the premises*.

(3) *Environmental permits*. A list of all environmental control permits held by or for the facility.

(4) *Description of operations*. A brief description of the user's operations and average production rates, including identification of all applicable North American Industry Classification System Codes. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.

(5) *Flow measurement*. The measured average daily and maximum daily flow, in gpd, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR § 403.6(e).

(6) *Measurement of pollutants*.

a. The categorical pretreatment standards applicable to each regulated process.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass where required by the categorical standard or by the director, of regulated pollutants in the discharge from each regulated process. The information shall include a chain of custody record that lists the outfall location, sample date, sample time, sample type and name of sample collector.

c. Instantaneous, daily maximum and long-term average concentrations, or mass where required.

d. The sample shall be representative of daily operations and shall be analyzed according to procedures set out in section 20-483. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the director or the applicable standards to determine compliance with the standard.

e. The user must sample according to the procedures set out in section 20-484.

f. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.

g. The user should take samples immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR § 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternative concentration or mass limit has been calculated in accordance with 40 CFR § 403.6(e), the user shall submit this adjusted limit along with supporting data to the POTW.

h. The director may allow the user to submit a baseline report that utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

i. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis accurately represent normal work cycles and expected pollutant discharges to the POTW.

(7) *Certification*. A statement, reviewed by the authorized representative of the user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional O and M and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(8) *Compliance schedule*. If additional pretreatment and/or O and M is required to meet the categorical pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O and M shall be submitted. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this chapter must meet the requirements set out in section 20-474.

(9) *Signature and report certification*. All baseline monitoring reports must be signed and certified in accordance with section 20-534(a).

(Code 1994, § 14.11.390; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-474. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by subsection 20-473(b)(8):

(1) The schedule shall contain progress increments in the form of dates by which to commence and complete major events leading to the construction and operation of additional pretreatment, or implementation of additional O and M, required for the user to meet the applicable pretreatment standards. (Such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction and beginning and conducting routine operations.)

(2) No increment referred to in the preceding subsection shall exceed nine months.

(3) The user shall submit a progress report to the director no later than 14 days following each increment date in the schedule and the final date of compliance, including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps the user is taking to return to the established schedule.

(4) In no event shall more than nine months elapse between such progress reports to the director.

(Code 1994, § 14.11.400; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-475. Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in subsections 20-473(b)(4) through (6). For users subject to equivalent mass or concentration limits established according to the procedures in 40 CFR § 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified according to section 20-534(a).

(Code 1994, § 14.11.410; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-476. Periodic self-monitoring compliance reports.

(a) An SIU shall submit periodic reports that indicate the nature and concentration of pollutants in its discharge that are limited by a pretreatment standard, along with the measured daily flows. The information shall include a chain of custody record that lists the outfall location, sample date, sample time, sample type and name of sample collector. The director shall establish the schedule for such reporting in the SIU's wastewater discharge permit. Such schedule shall require submittal of the reports at a frequency of no less than every six months. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the user must submit documentation as required by the director or the applicable Standard to determine the compliance status of the user. All periodic compliance reports must be signed and certified according to section 20-534(a).

(b) All reports under this section are due 30 days following the end of the reporting period stated in the SIU's permit.

(c) All wastewater samples required under this section must be representative of the SIU's discharge. The SIU shall properly operate and maintain all wastewater monitoring and flow measurement facilities. Failure of an SIU to keep its monitoring facility in good working order shall not be grounds for the SIU to claim that sample results are unrepresentative of its discharge.

(d) If an SIU subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director using the procedures prescribed in section 20-484, the SIU shall include the results of this monitoring in the periodic compliance report.

(Code 1994, § 14.11.420; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-477. Reports of changed conditions.

(a) Each user must notify the director at least 30 days in advance of any planned significant changes to the user's operations or system that might alter the nature, quality or volume of its wastewater.

(b) The director may require the user to submit any information necessary to evaluate the changed condition, including a wastewater discharge permit application under section 20-459.

(c) The director may issue a wastewater discharge permit under section 20-462 or modify an existing wastewater discharge permit under section 20-466 in response to changed conditions or anticipated changed conditions.

(d) For the purposes of this requirement, significant changes include, but are not limited to, flow or pollutant loading increases of 20 percent or greater, and the discharge of any previously unreported pollutants.

(Code 1994, § 14.11.430; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-478. Reports of potential problems.

(a) In the case of any discharge that may cause potential problems for the POTW, including, but not limited to, accidental discharges, discharges of a nonroutine episodic nature, a noncustomary batch discharge or a slug load, the user shall immediately notify the POTW by telephone of the incident. This notification shall include the location of the discharge, type of waste, duration, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause of the discharge and the measures the user will take to prevent similar future occurrences. Such report shall not relieve the user of any expense, loss, damage or other liability that it may incur as a result of damage to the POTW, natural resources or other persons or property; nor shall such report relieve the user of any fines, penalties or other liability that may be imposed pursuant to this chapter or other applicable law.

(c) A user shall permanently post on its bulletin board or other prominent place information advising employees whom to call in the event of a discharge described in subsection (a) of this section. The SIU shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(Code 1994, § 14.11.440; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-479. Reports from un-permitted users.

Users not required to obtain a wastewater discharge permit shall provide reports to the director as the director may require.

(Code 1994, § 14.11.450; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-480. Reporting of violations and repeat sampling.

If sampling performed by a user indicates a violation, the user must notify the director in writing or by telephone within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within 30 days after becoming aware of the violation. Where the city has performed sampling and analysis in lieu of the user, the city must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Where the city finds a violation as a result of its compliance monitoring event, then the user shall perform repeat sampling and analysis within 30 days after becoming notified of the violation.

(Code 1994, § 14.11.460; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-481. Bypass reporting.

Users must report all bypasses in accordance with subsection 20-532(c).

(Code 1994, § 14.11.470; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-482. Notification of the discharge of hazardous waste.

(a) A user shall notify in writing the director, the EPA Region VIII Waste Management division and the state hazardous materials and waste management division of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other).

(1) If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, to the extent such information is known and readily available to the user, the notification shall also identify the hazardous constituents contained in the waste stream; estimate the mass and concentration of such constituents in the waste stream discharged during that calendar month; and estimate the mass and concentration of such constituents in the waste stream the user expects to discharge during the following 12 months.

(2) The user shall provide such notification no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged.

(However, the user must notify the POTW of any changed conditions under section 20-477). The notification requirement in this subsection does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 20-473, 20-475 and 20-476.

(b) Users are exempt from the requirements of subsection (a) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification. (However, the user must notify the POTW of any changed conditions under section 20-477.)

(c) If EPA or the state issues any new regulations under section 3001 of RCRA identifying any additional characteristic of a hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director, the EPA Region VIII Waste Management division and the state hazardous materials and waste management division of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this chapter, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practicable.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued hereunder or any applicable federal or state law.

(Code 1994, § 14.11.480; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-483. Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the director or other parties, that are approved by the EPA.

(Code 1994, § 14.11.490; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 30, 2013, § 1, 10-15-2013)

Sec. 20-484. Sample collection.

Reports required in section 20-473, 20-475 and 20-476 must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(1) Except as indicated in subsections (2) and (3) of this section, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the director. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques unless specified otherwise in a wastewater discharge permit or otherwise approved by the city.

(3) For sampling required in support of baseline monitoring and 90-day compliance reports required in sections 20-473 and 20-475, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the director may authorize a lower minimum. For the reports required by section 20-476, the industrial user is required to collect the number of grab samples necessary to assess and ensure compliance with applicable pretreatment standards and requirements.

(Code 1994, § 14.11.500; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 30, 2013, § 1, 10-15-2013)

Sec. 20-485. Timely submittal of reports.

For written reports required by this chapter or a wastewater discharge permit:

(1) The date of the postmark shall constitute submittal for reports sent postage prepaid by U.S. Mail;

(2) The date of receipt by the director shall constitute submittal for reports sent by other means.

(Code 1994, § 14.11.510; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-486. Record keeping.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under section 20-427. Records shall include the date, exact place, method and time of sampling, and the name of the person taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

(Code 1994, § 14.11.520; Ord. No. 35, 2008, § 1, 8-19-2008)

Secs. 20-487--20-510. Reserved.

Division 4. Enforcement

Sec. 20-511. Right of entry; inspection and sampling.

Upon presentation of proper credentials, the director may enter the premises of any user to determine the user's compliance with this chapter and any permit or order issued hereunder. Users shall allow the director ready access to all parts of the premises to inspect, sample, examine and copy records, and to perform any additional duties related to such compliance issues.

(1) Where a user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purpose of performing specific responsibilities.

(2) The director shall have the right to set up on the user's property, or require installation of, any devices necessary to sample and/or measure the user's operations.

(3) The director may require the user to install, in accordance with local construction standards and specifications, such sampling and monitoring equipment and facilities as necessary to ensure compliance with applicable requirements. The user shall maintain sampling and monitoring equipment at all times in a safe and proper operating condition at its own expense.

(4) The director may require the user to install and maintain sampling and monitoring facilities independent of the user's sampling and monitoring facilities to enable the director to independently monitor the user's discharge activities.

(5) At the request of the director, the user shall promptly remove any temporary or permanent obstruction to

safe and easy access to the facility to be inspected and/or sampled. The user shall bear any costs of clearing such access.

(6) In the event that the director is refused admission to the discharger's premises, the director may discontinue water or wastewater service to the premises until the director has been afforded reasonable access to the premises to accomplish inspection or sampling.

(Code 1994, § 14.11.530; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-512. Search warrants.

The director may request the municipal court or other appropriate court to issue a search warrant if:

(1) The user or someone the director reasonably believes to be acting on the user's behalf denies the director access to a building, structure or property, or portion thereof; and

(2) The director can demonstrate probable cause to believe that access to such area may show a violation of this chapter, that the director requires access to the area to conduct routine compliance inspection or sampling or that the director needs access to the area to otherwise protect the public health, safety or welfare.

(Code 1994, § 14.11.540; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-513. Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs, and from the director's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the director, that the release of such materials would divulge information, processes or methods of production entitled to protection as trade secrets under applicable law. The user must assert any such request at the time it submits the materials. When a user requests and demonstrates upon submitting materials that they should be held confidential, the director shall withhold from public inspection those portions of materials such that might disclose trade secrets or secret processes. The director shall, however, make such materials available immediately upon request to governmental agencies for uses related to the CDPS or pretreatment programs, and in enforcement proceedings involving the person furnishing the report. wastewater constituents and characteristics and other effluent data as defined by 40 CFR § 2.302, do not constitute confidential information and shall be available to the public without restriction.

(Code 1994, § 14.11.550; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-514. Publication of users in significant noncompliance.

The director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the users that, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" means:

(1) Chronic violations of wastewater discharge limits, defined herein as those in which 66 percent or more of wastewater measurements taken for the same pollutant during a six-month period exceed by any amount, a numeric pretreatment standard or requirement, including instantaneous maximum allowable discharge limits;

(2) Technical review criteria (TRC) violations, defined herein as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including the instantaneous maximum allowable discharge limit, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of pretreatment standards or requirements (daily maximum, long-term average, instantaneous maximum allowable discharge limit or narrative standard) that the director determines has caused, alone or in combination with other discharges, interference or pass through, or that has endangered the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that caused imminent endangerment to human health or the environment, or resulted in the director's exercise of his emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;

(6) Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports related to compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation, including a violation of a sector control program or BMP, that the director determines will adversely affect the operation or implementation of the local pretreatment program.

(Code 1994, § 14.11.560; Ord. No. 35, 2008, § 1, 8-19-2008; Ord. No. 30, 2013, § 1, 10-15-2013)

Sec. 20-515. Notice of violation.

When the director finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit, an order issued hereunder or any other pretreatment standard or requirement, the director may serve that user a written notice of violation. Within 30 days of the receipt of such notice, the user shall submit in writing to the director an explanation of the violation and a plan with specific steps to correct the violation and prevent its recurrence. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Issuance of a notice of violation shall not be a bar against, or a prerequisite for, taking any other action against the user. A user may seek review of a notice of violation and request an administrative appeal hearing within ten days following issuance of the notice of violation. The administrative appeal hearing shall be conducted according to procedures described in section 20-529.

(Code 1994, § 14.11.570; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-516. Compliance orders.

When the director finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit, an order issued hereunder or any other pretreatment standard or requirement, the director may order the user responsible for the discharge to attain compliance within a specified time. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. Compliance orders may also assess fines and administrative costs against the user. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user. A user may seek review of a compliance and request an administrative appeal hearing within ten days following issuance of a compliance order. The administrative appeal hearing shall be conducted according to the procedures described in section 20-529.

(Code 1994, § 14.11.580; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-517. Show cause hearing.

The director may order a user that has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, to appear before the director and show cause why the city should not take the proposed enforcement action, including the assessment of administrative fines and costs. The director shall serve notice on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and requesting that the user show cause why the proposed enforcement action should not be taken. The director shall serve notice of the hearing by certified mail (return receipt requested) at least five days prior to the hearing. The director may serve such notice on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. A user may seek review of a show cause hearing determination and request an administrative appeal hearing within ten days following receipt of show cause hearing decision. The administrative appeal hearing shall be conducted according to procedures described in section 20-529.

(Code 1994, § 14.11.590; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-518. Consent orders.

The director may enter into a consent order, an assurance of voluntary compliance or other similar document establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action for the user to take to correct the noncompliance within a specified time period. Such documents shall have the same force and effect as the compliance orders issued pursuant to section 20-516, may contain an agreement as to payment of fines and costs and shall be judicially enforceable.

(Code 1994, § 14.11.600; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-519. Cease and desist orders.

(a) When the director determines: that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement; that the user's past violations are likely to recur; or that the user's discharge endangers the environment or threatens to interfere with the operation of the POTW; the director may, after formal notice to the user and an opportunity to be heard under section 20-517, order the user to cease and desist all such violations and direct the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action necessary to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(b) When the director determines that a user's discharge imminently threatens human health or welfare, the director may, after informal notice to the user, order the user to cease and desist such threat and direct the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action necessary to properly address the imminent threat, including halting operations and/or terminating the discharge.

(c) A user may seek review of a cease and desist order according to procedures described in section 20-529. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Code 1994, § 14.11.610; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-520. Administrative fines.

Following the issuance of a notice of violation, a compliance order or order to show cause, the director may fine a user in an amount not to exceed $1,000.00 per violation. The director shall determine the applicable fine using the city's administrative penalty evaluation form and administrative penalty matrix. Each day on which noncompliance occurs, or continues, shall constitute a separate and distinct violation. In the case of monthly or other long-term average discharge limits, the director may assess fines for each day during the period of violation. The director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(1) The director may add unpaid charges and fines to the user's next scheduled sewer service charge or utilize other collection remedies. All unpaid fines and charges shall constitute a lien against the user's property. In that case, the director of finance shall file such lien to protect the city's interest. Fines and charges remaining unpaid for 60 calendar days shall accrue interest at the rate set forth in section 6-197 on the unpaid balances.

(2) Issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Code 1994, § 14.11.620; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-521. Delinquent payment of administrative fines and costs; notice before collection action.

Before filing a civil action to collect one or more delinquent penalty assessments, the director shall send a notice to the responsible party or parties, which advises the party or parties of the nature of the violation that resulted

in a civil penalty, the dates on which violations occurred, the original due date of the penalty assessment and the amount of the penalty, including any delinquency charges. The notice shall further advise the responsible party or parties that, unless payment of all assessments is made to the city within ten days of the date of the notice, civil action to collect the delinquent amounts may be filed in a court of competent jurisdiction for collection of such assessments.

(Code 1994, § 14.11.630; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-522. Delinquent payment of administrative fines and costs; collection action initiation.

If the city does not receive full payment of all fines and costs following the notice provided for in section 20-521, the city attorney shall file civil action for collection in the appropriate court. Any inaccuracy or omission in the notice under section 20-521 shall not bar or serve as a defense to the civil action. Any such defect may result in the disallowance of interest until the city perfects notice.

(Code 1994, § 14.11.640; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-523. Liability for expenses and fines.

Any user violating this chapter shall be liable for any expense, loss or damage caused the POTW by reason of such violation, including increased costs for sewage treatment, biosolids treatment and disposal, and POTW operation and maintenance expenses resulting from the user's discharge. If a user discharges pollutants that cause the state to fine the city for violating any condition of its CDPS permit, the discharger shall indemnify the city for the total cost of the fine, including, without limitation, all legal, sampling, analytical and other associated costs and expenses.

(Code 1994, § 14.11.650; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-524. Injunctive relief.

When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, an order issued hereunder or any other pretreatment standard or requirement, the director may petition the appropriate court, through the city attorney, to issue a temporary or permanent injunction, as appropriate, to restrain or compel the specific performance of the wastewater discharge permit, order or other requirement imposed by this chapter on activities of the user. The director may also seek such other action appropriate for legal and/or equitable relief, including requiring the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(Code 1994, § 14.11.660; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-525. Criminal prosecution.

(a) A user who knowingly or negligently violates any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, shall, upon conviction, be guilty of a misdemeanor offense, punishable by a fine of not more than $1,000.00 per violation per day or imprisonment for not more than one year, or both. Each day, or portion thereof, that a person commits, continues or allows a violation of any provision of this chapter, wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, shall constitute a separate offense and is punishable accordingly.

(b) A user who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other documentation filed or required to be maintained pursuant to this chapter, a wastewater discharge permit or order issued hereunder, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than $1,000.00 per violation per day, or imprisonment of not more than one year, or both.

(Code 1994, § 14.11.670; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-526. Remedies nonexclusive.

The remedies provided for in this chapter are not exclusive. The director may take any, all or any combination of these actions against a noncompliant user as permitted by law. The city's enforcement response guide will direct enforcement of pretreatment violations. However, the director may take other action against any user when the circumstances warrant, interested parties may obtain copies of the city's enforcement response guide from the

director.

(Code 1994, § 14.11.680; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-527. Performance bonds.

The director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a bond or other financial instrument acceptable to the director of finance and payable to the city, in a sum not to exceed a value that the director determines to be necessary to achieve consistent compliance.

(Code 1994, § 14.11.690; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-528. Water supply severance.

The director may discontinue water service to any user who has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply. Within ten days following discontinuance of water service, the user may request a hearing which shall be held in accordance with section 20-529.

(Code 1994, § 14.11.700; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-529. Administrative appeal hearings.

Any user may petition the director to reconsider (administrative appeal) a notice of violation, order, penalty or any other enforcement action in this chapter within ten days of the receipt of the notice of violation or other enforcement action.

(1) Failure to submit a written petition for review within such ten-day period shall constitute a waiver of the right to the administrative appeal.

(2) In its written petition, the appealing party must indicate the enforcement actions objected to, the reasons for this objection and any proposed alternative action.

(3) Only the challenged portions of the final enforcement action shall be stayed pending an appeal.

(4) The director shall serve notice of the hearing by certified mail (return receipt requested) of the location, date and time of the administrative appeal hearing at least five days prior to the hearing.

(5) The director shall issue a written decision on the petition within 20 days after the administrative appeal hearing.

(6) Aggrieved parties may seek review of the director's decision by filing a written request with the director within 30 days of the date of such final decision, asking that the director's written decision be sent to the water and sewer board. The director shall submit his written decision to the water and sewer board within 30 days of receiving the request. The water and sewer board shall make its decision based on the administrative record. The water and sewer board may elect to decline to issue a decision on the user's appeal. If the water and sewer board so elects, the user's appeal shall be directed to the administrative hearing officer.

(7) Aggrieved parties seeking review of the water and sewer board's decision on the administrative record must do so by filing a request and fee hearing with the administrative hearing officer, as authorized by ~~section 3-11 of~~ the city Charter within 30 days after the decision of the board. Such review shall be de novo, and the administrative hearing officer's decision shall be final. administrative hearing officer decisions not to reconsider an enforcement action shall be considered the final administrative action for the purposes of judicial review. The administrative hearing officer shall conduct the hearing in accordance with the procedures set forth in chapter 12 of title 2 of this Code and in the administrative hearing officer rules and regulations. The administrative hearing officer may assess fines and issue orders consistent with the provisions of this chapter. To the extent this chapter is inconsistent with chapter 12 of title 2 of this Code or the administrative hearing officer rules and regulations, this chapter shall govern.

(8) Any appeal from the decision of the administrative hearing officer shall be to the appropriate court pursuant to C.R.C.P. 106.

(Code 1994, § 14.11.710; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-530. Upset.

(a) For the purposes of this chapter, the term "upset" means an exceptional incident that results in unintentional and temporary noncompliance with a categorical pretreatment standard because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards, provided that the user immediately notifies the director upon discovery of the upset and meets the requirements of subsection (c) of this section.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

(1) An upset occurred and the user can identify its cause;

(2) The facility was, at the time, being operated in a prudent and professional manner and in compliance with applicable operation and maintenance procedures; and

(3) In addition to the immediate notice required in subsection (b) of this section, the user submitted the following information to the director within 24 hours of becoming aware of the upset:

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;

c. Steps the user is taking or plans to take to reduce, eliminate and prevent recurrence of the noncompliance; and

d. If the user initially provided the foregoing information orally, the user must submit it in writing within five days.

(d) In any enforcement proceeding, the user seeking to establish the affirmative defense of an upset shall have the burden of proof.

(e) A user will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) A user shall control all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until restoring the facility or providing an alternative method of treatment. This requirement applies in the situation, among others, where the user partially or completely loses power to its treatment facility.

(Code 1994, § 14.11.720; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-531. Affirmative defense.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibition in subsection 20-421(b) or the specific prohibitions in subsection 20-421(c), if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged, and the user complied with each limit directly prior to and during the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its CDPS permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(Code 1994, § 14.11.730; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-532. Bypass.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.

Severe property damage means substantial physical damage to property, damage to the treatment facility that renders it inoperable or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. The term "severe property damage" does not mean economic loss caused by delays in production.

(a) A user may allow any bypass to occur that does not violate a pretreatment standard or requirement, but only if such bypass is necessary for essential maintenance to ensure efficient operation. These bypasses are not subject to subsections (d) and (e) of this section.

(b) If a user knows in advance of the need for a bypass, it shall notify the director at least ten days before the date of the bypass or at the earliest possible time the user becomes aware of the bypass need if less than ten days prior to the bypass.

(c) A user shall orally notify the director of an unanticipated bypass that exceeds applicable pretreatment standards immediately upon becoming aware of the bypass, but in no case later than 24 hours from the time it becomes aware of the bypass. The user must also submit a written report within five days of the time it becomes aware of the bypass. The report shall describe the bypass and its cause; state the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, its anticipated duration; and steps taken or planned to prevent reoccurrence of the bypass.

(d) Bypass is prohibited, and the director may take enforcement action against a user for a bypass, unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(2) There was no feasible alternative to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. (This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance.); and

(3) The user submitted the notices required under subsection (d) of this section.

(e) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that the bypass will meet the three conditions listed in subsection (e) of this section.

(Code 1994, § 14.11.740; Ord. No. 35, 2008, § 1, 8-19-2008)

Sec. 20-533. Pretreatment charges and fees.

The city may assess reasonable fees and charges through rules or other means to recoup the costs of administering its pretreatment program, which may include:

(1) Fees for wastewater discharge permit applications, including the cost of processing such applications;

(2) Fees for monitoring, inspection and surveillance procedures, including the cost to collect and analyze a user's discharge samples and to review monitoring reports submitted by users;

(3) Fees for reviewing accidental discharge procedures;

(4) Fees for filing appeals; and

(5) Other fees that the city may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines and penalties chargeable by the city.

(Code 1994, § 14.11.750; Ord. No. 35, 2008, § 1, 8-19-2008)

~~**Sec. 14.11.760. Severability.**~~

~~If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.~~

~~(Code 1994, § 14.11.760; Ord. No. 35, § 1, 2008)~~

Sec. 20-534. Signatories and certification.

(a) All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(b) Annual certification for nonsignificant categorical industrial users. A facility that the director determines is a nonsignificant categorical industrial user, as defined in section 20-396, must annually submit to the POTW the following certification signed by an authorized representative of the user. This certification must accompany an alternative report required by the director:

> Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____, to _____, _____, [months, days, year]:
>
> a. The facility described as _____ [facility name] met the definition of a nonsignificant categorical industrial user as described in section 20-396.
>
> b. The facility complied with all applicable pretreatment standards and requirements during this reporting period; and
>
> c. The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.
>
> This compliance certification is based upon the following information:
>
> _____
>
> _____
>
> _____
>
> _____
>
> Official Signature
>
> _____.

(Code 1994, § 14.11.770; Ord. No. 35, 2008, § 1, 8-19-2008)

Secs. 20-535--20-561. Reserved.

~~CHAPTER 14.16~~ ARTICLE VI. STORM SEWERS

Division 1. In General

Sec. 20-562. Declaration of purpose and legislative intent.

(a) This chapter sets forth requirements for direct and indirect discharges into the city's stormwater drainage system as defined in section 20-621. This chapter is necessary to provide for and promote the public health, safety, and welfare of the citizens residing within the city and property owners or other users that depend on the same water sources by preventing illicit discharges.

(b) The purposes of this chapter are to:

(1) Prevent the introduction of pollutants, substances or debris into the stormwater drainage system or otherwise be incompatible with the system or interfere with the beneficial uses of the system.

(2) Protect the public and city personnel who may work with or be exposed to the stormwater drainage system because of their presence within the system in the course of their employment.

(3) Promote pollution prevention and prevent the introduction of materials or other debris that may adversely affect the environment or hamper the stormwater drainage system.

(4) Provide for equitable distribution of the cost of repairing or servicing the stormwater drainage system among property owners or other users by having those who cause obstructions or problems to the system pay their share of the costs of such incidents.

(c) The city council reserves the right to establish discharge limitations and restrict substances that may be introduced to the stormwater drainage system more stringent than federal and state requirements or current municipal limitations if deemed necessary to comply with the objectives of this chapter.

(Code 1994, § 14.16.010; Ord. No. 32, 1999, § 1, 7-20-1999; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.010, 7-2-2019)

~~Sec. 20-402. Repealed.~~

~~Repealed by Ord. No. 31,2019, 7-2-2019.~~

~~(Code 1994, § 14.16.020; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.020, 7-2-2019)~~

Sec. 20-563. Discharge prohibitions.

(a) Illicit discharges are discharges to the city's stormwater drainage system that are not composed entirely of stormwater and are not allowed discharges as described in subsection (b) of this section. Illicit discharges to the city's stormwater drainage system are prohibited.

(b) The following are allowed discharges into the city's stormwater drainage system and are exempted from classification as an illicit discharge: uncontaminated runoff from rain or snow melt; landscape irrigation; diverted stream flows; irrigation return flow; rising groundwater; uncontaminated groundwater infiltration as defined at 40 CFR § 35.3005(20); uncontaminated pumped groundwater; springs; flows from riparian habitat and wetlands; discharges in accordance with the state department of public health and environment: water quality control division low risk policy discharge guidance documents; foundation drains; air conditioning condensation; water from crawlspace pumps; footing drains; individual residential car washing; charity car washes; water incidental to city sweeping that is not associated with construction; flows from emergency firefighting activities; water dyed for testing processes in accordance with manufacturer recommendations; and other discharges specifically authorized by the city's state discharge permit system permit or National Pollution Discharge Elimination System permit.

(c) Any tap into a stormwater line made prior to 1999 that is discharging only allowable discharges described in subsection (b) of this section will be considered a legal non-conforming tap until one of the following occurs; at which time the time the tap must be removed and connected to the sanitary sewer system (not the stormwater drainage system): improvement to the property, change in ownership, or change in use.

(Code 1994, § 14.16.140; Ord. No. 32, 1999, § 2, 7-20-1999; Ord. No. 18, 2008, § 4, 5-6-2008; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.140, 7-2-2019)

Sec. 20-564. Accidental discharges.

(a) Every property owner or other user shall ensure that the stormwater drainage system is protected from accidental discharge of pollutants or prohibited materials from the owner/user's premises or facilities at the owner/user's sole expense. Upon request by the director of public works or designee, an owner/user shall be required to submit detailed plans, including procedures for handling accidental discharges of pollutants or prohibited materials into the stormwater drainage system.

(b) In case of an accidental discharge, an owner/user shall notify the city as soon as practicable by notifying the city fire department of the location of the discharge, type of material, concentration, volume, and any corrective

actions taken.

(c) Within five business days following an accidental discharge, an owner/user shall submit to the director of public works or designee a written report describing the cause of the discharge and measures to be taken to prevent future occurrences. The submission of a written report does not relieve the owner/user of any expense or liability that may be incurred from damage to the stormwater drainage system, receiving waters, persons, or property, including applicable fines and penalties. Failure to submit a report is a Code violation.

(Code 1994, § 14.16.150; Ord. No. 32, 1999, § 3, 7-20-1999; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.150, 7-2-2019)

Sec. 20-565. Cleanup responsibility; assessment for expenses; lien and enforcement.

(a) A property owner or other user responsible for an unauthorized discharge shall promptly institute and complete all actions necessary to remedy the effects of an unauthorized discharge at no cost to the city. When deemed necessary in the interest of public health, safety, and welfare by the fire chief or the director of public works, or their respective designees, cleanup may be initiated by the city. Costs associated with such cleanup shall be borne by the owner/user responsible for the unauthorized discharge.

(b) An owner/user violating any provisions of this chapter shall be liable under any applicable federal, state or local law for any expense, loss or damage caused the city by reason of such violation, including increased costs for management or operation of the stormwater drainage system when such increases are the result of the owner/user's discharge. Such liability includes, but is not limited to, reimbursement for costs of emergency response and/or city cleanup resulting from the discharge.

(c) If an owner/user discharges such pollutants, substances or debris that cause the city to be in violation of any applicable law or permit and to be fined by the U.S. Environmental Protection Agency, or other federal or state governmental agency for such violation, such owner/user shall be fully liable for reimbursement of the total amount of the fine assessed against the city and city costs, including without limitation, all legal, sampling and analytical testing costs.

(d) If the city incurs expenses and costs for cleanup of spills or illegal dumping activity, such total costs and expenses shall be set forth in a written assessment notice to be prepared by the director of finance and to be mailed to the owner/user whose duty it is to provide such services and materials. All such assessment notices shall declare that the full amount is immediately due and payable. Failure to pay any such assessment shall cause the amount to immediately become a lien against the property, and such lien shall have priority over all other liens except general taxes and prior special assessments. Such lien shall be enforced in the same manner as the lien for special assessments is enforced under section 18-397.

(e) The city may bring civil suit against the owner/user for the assessment of the unpaid portion thereof, described at subsection (d) of this section, at any time after a 30-day period. This remedy shall be in addition to and an alternative to any other remedy available.

(f) Any assessment or fee not be paid when due may be recovered in an action at law by the city. In addition to any other remedies or penalties provided by this chapter or this Code, the administrative hearing officer is hereby empowered and directed to enforce this provision as to any and all delinquent owner/users. Authorized personnel under the supervision of the director of public works or designee shall, at all reasonable times, have access to any property served by the city for inspection, repair, or enforcement of the provisions of this chapter.

(g) All authorized personnel under the supervision of the director of public works or designee shall have the power to conduct inspections, give verbal direction, issue notices of violations and implement other enforcement actions under this chapter.

(Code 1994, § 14.16.160; Ord. No. 32, 1999, § 5, 7-20-1999; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.160, 7-2-2019)

Sec. 20-566. Notice of violation; stop work orders; permit termination.

(a) The director of public works or designee may issue a notice of violation to any owner/user who discharges material as described in this Code into the stormwater drainage system. Such notice of violation shall be issued in accordance with section 2-1032.

(b) When any construction activities, as defined in section 12-191, are being performed in noncompliance with any provisions of this chapter or Code or other applicable law, rule, or regulation, the director of public works or designee can order the work stopped by serving written notice upon the person performing the construction activities. The person shall immediately stop work until authorized in writing by the director of public works or designee to proceed with the work or until approval to proceed has been obtained by legal process. If the person cannot be located, the notice may be posted in a conspicuous place upon the site where construction activities are taking place. The notice shall not be removed until the violation has been cured or authorization to remove the notice has been issued by the city.

(c) Any violation of a condition of a city-issued permits a violation of this chapter, Code, or other applicable law, rule, or regulation, including performing noncompliant construction activities, shall be sufficient cause for revocation of the city-issued permit. The city may reinstate the permit upon proof of the correction of the noncompliance.

(Code 1994, § 14.16.170; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.170, 7-2-2019)

Sec. 20-567. Code infraction and administrative hearing procedures.

A notice of violation issued under section 20-566 is a misdemeanor infraction and shall proceed in accordance with section 2-1032 and shall be subject to the provisions of this chapter and penalties as set forth in chapter 10 of title 1 of this Code.

(Code 1994, § 14.16.180; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.180, 7-2-2019)

~~**Sec. 20-419. Repealed.**~~

~~Repealed by Ord. No. 31,2019, 7-2-2019.~~

~~(Code 1994, § 14.16.190; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.190, 7-2-2019)~~

Sec. 20-568. Connecting to storm sewer without permit unlawful.

It is unlawful for any person to tap or make any connection with the stormwater drainage system without first having obtained a permit as provided in this chapter.

(Prior Code, § 17-34; Code 1994, § 14.16.030; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.030, 7-2-2019)

Sec. 20-569. Application for permit.

A person desiring to tap or make any connection with the stormwater drainage system must make written application, using the city application and permit for construction in public right-of-way/easement, to the director of public works. The application shall state the nature or character of the tap or connection to be made, the location of the tap or connection, the premises sought to be served by the tap or connection, and the amount of the tap/connection fee set forth in the city fee schedule for construction in the public right-of-way/easement.

(Prior Code, § 17-35; Code 1994, § 14.16.040; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.040, 7-2-2019)

Secs. 20-570--20-586. Reserved.

Division 2. Restrictions and Requirements for Connections

Sec. 20-587. Installation costs and fee.

The person making application to connect with the stormwater drainage system, at the time of making such application, shall pay to the city the complete cost for such installation, including the cost of pipe and other materials, labor and repairs of paved or unpaved streets or alleys, as set forth in the city fee schedule for construction in the public right-of-way/easement.

(Prior Code, § 17-36; Code 1994, § 14.16.050; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.050, 7-2-2019)

Sec. 20-588. Installations; city engineer to direct.

All installations of taps or connections to the stormwater drainage system shall be under the direction of the director of public works or designee.

(Prior Code, § 17-40; Code 1994, § 14.16.060; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.060, 7-2-2019)

Sec. 20-589. Service connections; required before streets paved; specifications; business district requirements.

Before any impervious areas, as defined in section 20-621, are created in any of the streets or alleys within the city, a property owner shall lay service connections with the stormwater drainage system extending from the sewer line to the property line, which connections shall be of adequate size to provide drainage for present and future buildings upon the property in accordance with the schedule of sizes designated in section 20-590. All downspouts, water drains, or conductor pipes from the roofs of buildings in commercially-zoned areas of the city shall be placed beneath the surface of the street or alley adjoining the property and be connected with the stormwater drainage system located within the public right-of-way in conformity with this Code and with the approval of the director of public works or designee.

(Prior Code, § 17-38; Code 1994, § 14.16.070; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.070, 7-2-2019)

Sec. 20-590. Required sizes designated; exceptions.

Unless special permission is granted by a resolution of the city council to the contrary, the following sizes of service connection will be required:

(1) For buildings having a roof area up to 3,000 square feet, a four-inch service connection is required.

(2) For buildings having a roof area of from 3,000 square feet to 10,000 square feet, a six-inch service connection is required.

(3) For buildings having a roof area of from 10,000 to 20,000 square feet, an eight-inch service connection is required.

(Prior Code, § 17-39; Code 1994, § 14.16.080; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.080, 7-2-2019)

Sec. 20-591. Roof water discharge requirements designated.

No water shall be discharged directly or indirectly from any downspout, water drain, or conductor pipe upon any street, alley, or sidewalk in the city, but shall be conducted underneath the street, alley, or sidewalk in conduit of suitable dimensions and materials and be connected with the part of the stormwater drainage system located in the adjacent street or alley, and if no part is so located, then the water must be directed to an area where it can infiltrate into the ground prior to reaching a street, alley, or sidewalk.

(Prior Code, § 17-37; Code 1994, § 14.16.090; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.090, 7-2-2019)

Sec. 20-592. Application to remodeled buildings, living units and redevelopment districts.

The stormwater drainage development impact fees provided for in section 6-998 shall also be imposed with respect to existing development if existing buildings or other physical improvements on the property are remodeled or added to or if structures or other living units, such as mobile homes, are moved onto the property.

(Prior Code, § 17-42; Code 1994, § 14.16.100; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.100, 7-2-2019)

~~**Sec. 20-411. Repealed.**~~

~~Repealed by Ord. No. 31,2019, 7-2-2019.~~

~~(Prior Code, § 17-44; Code 1994, § 14.16.110; Ord. No. 41, 2003, §§ 2, 3, 6-3-2003; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.110, 7-2-2019)~~

~~**Sec. 20-412. Repealed.**~~

~~Repealed by Ord. No. 31,2019, 7-2-2019.~~

~~(Prior Code, § 17-43(a); Code 1994, § 14.16.120; Ord. No. 9, 1988, § 6, 2-16-1988; Ord. No. 41, 2003, §§ 2, 3, 6-3-2003; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.120, 7-2-2019)~~

Sec. 20-593. Drainage system construction; payment costs.

A developer of property shall be obligated to construct components of the stormwater drainage system within the boundaries of the property being developed at the sole expense of the developer, to the extent that such construction is required by the director of public works or designee as part of the subdivision process; provided, however, that if the director of public works or designee requires the construction of oversized components of the stormwater drainage system components, then the city shall share in the design and construction costs associated with the portion of the oversized construction attributable to draining other lands.

(Prior Code, § 17-45; Code 1994, § 14.16.130; Ord. No. 37, 2012, § 3, 10-2-2012; Ord. No. 31, 2019, exh. C, § 14.16.130, 7-2-2019)

Secs. 20-594--20-619. Reserved.

CHAPTER ~~14.15~~ 3. STORMWATER MANAGEMENT PROGRAM

Sec. 20-620. Declaration of purpose.

(a) The city council hereby finds, determines and declares that providing stormwater facilities for the drainage and control of flood and surface waters within the city, including areas to be subdivided and developed, is necessary in order that stormwaters and surface waters may be properly drained, treated and controlled and is necessary to protect the health, property, safety and welfare of the city and its inhabitants.

(b) The city council further finds, determines and declares that the owners of all real property within the city are the ultimate beneficiaries and users of the city's stormwater drainage system and should pay a portion of the costs of providing, maintaining and administering the facilities necessary for the reasonable control of stormwater.

(c) The city council further finds, determines and declares that dedicated funding for stormwater management is needed.

(d) The city council further finds that the appropriate way to establish and administer this program is by establishing a stormwater management program as an enterprise fund operation of the city.

(Code 1994, § 14.15.010; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.010, 7-2-2019)

Sec. 20-621. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Control measures means BMPs (best management practices) or other operating procedures of methods used to prevent or reduce the discharge of pollutants to the city's stormwater drainage system from construction site runoff, spillage, and leaks, and can include the installation, operation, and maintenance of structural controls and treatment devices, such as landscape buffers and swales, modular block porous pavement, and detention basins.

Impervious area means areas covered in a way that prevents the land's natural ability to absorb and infiltrate typical precipitation and irrigation events, like roofs, walkways, patios, driveways, parking lots, storage areas, concrete and asphalt, and any other continuous watertight pavement or covering.

MS4 permit means the state discharging permitting system general permit stormwater discharges associated with municipal separate storm sewer system issued by the state department of public health and environment under which the stormwater drainage system operates.

Stormwater drainage system means any manmade improvement or conveyance intended for stormwater runoff from real property, including, but not limited to, open channels, streets, gutters, catch basins, underground pipes, ditches, swales, detention or retention ponds, and lakes.

(Code 1994, § 14.15.020; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 18, 2008, § 1, 5-6-2008; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2013, § 1, 10-15-2013; Ord. No. 31, 2019, exh. B, § 14.15.020, 7-2-2019)

Sec. 20-622. Creation of stormwater management program.

There is hereby created a stormwater management program of the city empowered to implement the provisions of this chapter.

(Code 1994, § 14.15.030; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.030, 7-2-2019)

Sec. 20-623. Administration by city manager.

The administration of the provisions of this chapter shall be exercised by the city manager, who may prescribe forms, rules, and regulations in conformity with this chapter or for the ascertainment, computation, and collection of fees imposed hereunder and for the proper administration and enforcement hereof. The city manager may delegate the administration of this chapter or any part thereof, subject to the limitations of the Charter and Code of the city, to duly qualified employees and agents of the city.

(Code 1994, § 14.15.040; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.040, 7-2-2019)

Sec. 20-624. Creation of stormwater board.

There is hereby created a board to be known as the stormwater board to assist in administration of this chapter. The board shall consist of five members appointed by the city council.

(Code 1994, § 14.15.050; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2013, § 1, 10-15-2013; Ord. No. 31, 2019, exh. B, § 14.15.050, 7-2-2019)

Sec. 20-625. Comprehensive stormwater management plan.

The purpose of the stormwater management program shall be to develop a comprehensive stormwater management plan for the city based on sound engineering studies that indicate the location of all facilities in the city, including those facilities that currently exist and those determined to be needed and intended to be constructed in the future. The stormwater management plan is described in the city's storm drainage design criteria and construction specifications manual and serves to guide the stormwater management program in the construction, operation, and maintenance of the stormwater drainage system. The city shall, in all ways and within the limits of its powers, solicit adjacent municipalities, and the county to cooperate in providing stormwater facilities in drainage basins extending outside the city limits and in general, to carry out the stormwater management plan.

(Code 1994, § 14.15.060; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.060, 7-2-2019)

Sec. 20-626. Duties of stormwater board.

(a) The stormwater board shall make recommendations to the city council on all matters concerning stormwater management, priorities, policies, fees, and procedures.

(b) The board shall also review and make recommendations to the city council on the stormwater management plan.

(c) The board shall recommend the facilities needed to provide an adequate stormwater drainage system. Such recommendations shall include the following:

(1) The facilities to be constructed.

(2) The prioritization and schedule for construction of facilities.

(3) The method of assessing fees against property.

(4) Apportionment of the cost of new facilities to be assessed against property and the portion, if any, of such cost which should be paid by the city.

(5) Long-range plans. Before making recommendation for any project, the board shall analyze the project and compare the benefits to be achieved with the anticipated cost of the project.

(d) The board shall annually recommend stormwater rates, including the stormwater drainage development impact fees imposed pursuant to chapter 15 of title 6 of this Code, which need not be uniform for all classes of users. Rates shall include all costs for the construction, reconstruction, replacement, rehabilitation, and improvement of the stormwater drainage system.

(e) The board shall make recommendations to the city manager for expenditures for the stormwater drainage system annual budget.

(f) The board shall also hear the appeal of any owner of property in the city who disputes the amount of the stormwater management program fee made against property or who disputes any determination made by or on behalf of the city pursuant to and by authority of this chapter. After hearing, the board may make such revision or modification of such fee or determination as it shall deem appropriate.

(Code 1994, § 14.15.070; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.070, 7-2-2019)

Sec. 20-627. Stormwater management program fee.

(a) There is hereby imposed on each and every property within the city and upon the owners thereof a stormwater management program fee. This fee is deemed reasonable and is necessary to pay for the construction, reconstruction, maintenance, replacement, and improvement of the city stormwater drainage facilities and of such future stormwater drainage facilities as may be required, and to pay for the design, right-of-way acquisition, and construction or reconstruction of stormwater drainage facilities to the extent that such costs have been determined not to be the responsibility of developed properties. All of the proceeds of the stormwater management program fee are deemed to be in payment for use of the city's stormwater drainage system by the property on which the fee is imposed and by the owners thereof. This fee is in addition to and not in replacement of the stormwater drainage development impact fees imposed pursuant to chapter 15 of title 6 of this Code.

(b) The stormwater board shall provide recommendations as to the amount of the stormwater management program fee to the city manager. The recommendations will be based on a property's potential to produce stormwater runoff. The city manager shall be responsible for establishing the amount of the stormwater management program fee in accordance with section 1-38.

(c) Property owners who have provided stormwater management facilities operating consistent with the stormwater management plan, may request a reduction in the stormwater management program fee from the stormwater board.

(Code 1994, § 14.15.080; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 41, 2003, § 2, 6-3-2003; Ord. No. 26, 2011, § 1, 9-6-2011; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.080, 7-2-2019)

Sec. 20-628. Stormwater management program fund.

(a) All stormwater management program fees collected by the city and such other funds available to the city for the purposes of this chapter shall be deposited into a special fund which is hereby created, known as the Stormwater Management Program Fund. The Stormwater Management Program Fund shall be used for the purpose of paying the costs of stormwater drainage facilities to be constructed and the operation, administration, repairs, and maintenance of the existing stormwater drainage facilities of the city.

(b) All amounts available in the Stormwater Management Program Fund shall, from time to time, be invested by the director of finance in investments proper for city funds.

(Code 1994, § 14.15.090; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.090, 7-2-2019)

Sec. 20-629. Development infrastructure fund.

The stormwater drainage development impact fees currently collected pursuant to chapter 15 of title 6 of this Code and deposited in the separate account of the Development Infrastructure Fund pursuant to that chapter shall be administered by the stormwater management program and expended in accordance with the provisions of chapter

15 of title 6 of this Code and section 5-6 of the city Charter.

(Code 1994, § 14.15.100; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 41, 2003, § 2, 6-3-2003; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.100, 7-2-2019)

Sec. 20-630. Billing for fee.

The stormwater management program fee may be billed and collected with the city water and sewer bill for property utilizing city water and sewer services or billed and collected separately as the stormwater management program fee for property not utilizing city water and sewer services. All such bills for stormwater management program fees shall be paid to the department of finance and shall become due and payable in accordance with the rules and regulations of the department of finance pertaining to the collection of such charges. The director of finance shall place all collected funds into the Stormwater Management Program Fund.

(Code 1994, § 14.15.110; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.110, 7-2-2019)

Sec. 20-631. Certain properties exempt from fees.

The following are exempt from stormwater management program fees:

(1) Public park and recreational properties;

(2) Public or private ponds, lakes, reservoirs, rivers, creeks, natural watercourses, wetlands, or irrigation ditch/canal rights-of-way;

(3) Public streets, highways, rights-of-way, and alleys;

(4) Railroad property utilized for railroad purposes;

(5) Cemeteries; and

(6) Properties actively used for agriculture and classified agricultural by the county assessor.

(Code 1994, § 14.15.120; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 18, 2008, § 2, 5-6-2008; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.120, 7-2-2019)

Sec. 20-632. Unpaid fees to be a lien.

(a) An unpaid stormwater management program fee shall become a lien upon the property to which such charge is associated from the date the fee becomes due until the fee is paid.

(b) If the city incurs costs by reason of providing services or materials in connection with the operation of the stormwater management program, including administrative costs, those costs shall be set forth in a written special assessment notice to be prepared by the director of finance and mailed to the owner or other person whose duty it is to provide such services and materials. Failure to pay the special assessment shall cause the amount to become a lien against the property and that lien shall have priority over all other liens, except general taxes and prior special assessments.

(Code 1994, § 14.15.150; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.150, 7-2-2019)

Sec. 20-633. Requirement for permanent stormwater water quality control measures.

(a) The owner or developer of any new or existing development that involves land disturbing activity as defined in section 12-189 that is:

(1) Equal to or greater than one acre; or

(2) Less than one acre if the construction activities are part of a common plan of development or sale, as defined in section 12-189, must design, construct, install, perform inspections on, and maintain in perpetuity control measures that prevent or minimize water quality impacts and address stormwater runoff quality.

(b) The control measures must be designed, installed, and maintained, in accordance with the following:

(1) The city's storm drainage design criteria and construction specifications manual and urban drainage; and

(2) The flood control district's urban storm drainage criteria manual; and

(3) The design standards required by the city's MS4 permit.

Such control measures, including their attainment of design standards in conformance with the city's MS4 permit requirements, must be reviewed and approved by the director of public works or designee. The obligation to maintain the control measures in perpetuity shall be memorialized on a subdivision plat, annexation plat, development agreement, or other instrument recorded in the office of the county clerk and recorder.

(c) Should the owner or developer fail to adequately maintain the control measures, the city shall have the right to enter the property for the purposes of performing operation and maintenance. All associated costs, including administrative costs, shall be assessed pursuant to section 20-632(b).

(d) In addition to the above section, failing to adequately maintain control measures shall be a violation of this chapter.

(Code 1994, § 14.15.160; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.160, 7-2-2019)

Sec. 20-634. Excluded projects.

(a) The following new or existing development is not required to comply with section 20-633:

(1) Paving that does not result in a substantial increase of impervious area and infrastructure, like routine maintenance, rehabilitation, replacement, and reconstruction.

(2) Redevelopment of existing roads when:

a. Less than one acre of paved area per mile of road is added; or

b. Less than 8.25 feet of paved width at any location is added.

(b) Installation or maintenance of underground utilities or infrastructure that does not permanently alter existing terrain, ground cover, or drainage patterns.

(c) Single-family residential or agricultural zoned property equal to or greater than 2.5 acres per dwelling, having a total impervious area of less than ten percent.

(1) Any development that submits to the director of public works a site-specific study detailing rainfall and soil conditions demonstrating that post-development surface infiltration will not result in the discharge of concentrated stormwater flow during an 80th percentile runoff event. The site-specific study must be approved by the director of public works or his designee.

(2) Undeveloped property on which land disturbing activity occurs but results in no added structures or impervious area.

(3) Stream stabilization sites.

(4) Bike and pedestrian trails that are not attached to roads.

(5) Oil and gas exploration.

(Ord. No. 31, 2019, exh. B, § 14.15.165, 7-2-2019)

Sec. 20-635. Stormwater facilities and control measures required for subdivisions.

Prior to acceptance of the plat of a subdivision or the plan for a planned unit development (PUD) the owner or developer of the proposed subdivision or PUD must submit to the director of public works for review and approval plans and specifications for the construction and installation of all required stormwater facilities and control measures, including the facilities required to convey stormwater to existing drains, detention ponds, or other existing discharge points that conform with the city's storm drainage design criteria and construction specifications manual.

(Code 1994, § 14.15.170; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.170, 7-2-2019)

Sec. 20-636. Responsibilities for stormwater facilities, inspections, right of entry.

(a) All private stormwater facilities, including, but not limited to, those constructed by a homeowners'

association, shall not be the property of the city and The city shall not be responsible for their operation and maintenance unless the director of public works has accepted responsibility for the facilities in writing. upon acceptance of the stormwater facilities, the facilities become public stormwater facilities described in section 20-637.

(b) Authorized city personnel shall have the power to conduct inspections of private stormwater facilities, enter the premises at reasonable times, give verbal direction, issue notices of violation, and enforce the conditions set forth in development agreements.

(Code 1994, § 14.15.200; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 18, 2008, § 3, 5-6-2008; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.200, 7-2-2019)

Sec. 20-637. City to maintain stormwater facilities.

The city shall maintain all public stormwater facilities accepted by the city, located on city-owned property, and additional stormwater facilities dedicated to the city.

(Code 1994, § 14.15.210; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.210, 7-2-2019)

Sec. 20-638. Disclaimer.

Floods or drainage problems associated with stormwater may occasionally occur which exceed the capacity of the stormwater drainage system constructed and maintained by funds made available under this chapter. This chapter does not imply that property liable for the charges established herein will always be free from stormwater flooding or flood damage. This section does not purport to reduce the necessity for flood insurance. The establishment of the stormwater management program and its activities does not create liability of the city for damages caused by stormwater except as provided by the Colorado Governmental Immunity Act, section 24-10-101, et seq., C.R.S.

Sec. 20-639. Enforcement.

(a) Any fee which has not be paid when due may be recovered in an action at law by the city in addition to any other remedies or penalties provided by this chapter or this Code.

(b) Authorized employees of the city shall, at all reasonable times, have access to any premises served by the city for inspection, repair, or the enforcement of the provisions of this chapter.

(c) The director of public works or designee may issue a notice of violation to any property owner and/or developer who has not installed and maintained permanent stormwater control measures in accordance with this chapter.

(d) A violation noticed under this chapter shall be deemed a misdemeanor infraction, shall proceed in accordance with section 2-1032, and shall be subject to penalties set forth in chapter 10 of title 1 of this Code.

(Code 1994, § 14.15.220; Ord. No. 5, 1995, § 1(part), 1-17-1995; Ord. No. 60, 1997, § 2, 9-16-1997; Ord. No. 91, 2001, § 1, 11-6-2001; Ord. No. 37, 2012, § 2, 10-2-2012; Ord. No. 31, 2019, exh. B, § 14.15.220, 7-2-2019)

Secs. 20-640--20-664. Reserved.

CHAPTER ~~14.20~~ 4. FIRE HYDRANTS

Sec. 20-665. Condition of fire hydrants; interference prohibited.

All fire hydrants shall be under the control of and shall be kept in repair by the director of water and sewer. In case of fire, the member of the fire department and such other persons as the director of water and sewer shall authorize shall have free access to such fire hydrants. No other person shall open or operate any fire hydrant without permission of the director of water and sewer or draw therefrom or obstruct the approach thereto.

(Prior Code, § 22-18(a); Code 1994, § 14.20.010)

Sec. 20-666. Testing hydrants; defects.

The water and sewer director shall make periodic tests of all fire hydrants and keep such records of testing and flushing as required by the approved city records retention schedule.

(Prior Code, § 22-18(b); Code 1994, § 14.20.020; Ord. No. 46, 2012, § 1, 12-18-2012)

Sec. 20-667. Additional fire hydrants.

Each year the city council shall budget funds, as it deems necessary, to install additional fire hydrants in areas of the city determined to be deficient in fire hydrants according to current fire safety standards and as displayed on the official map provided for at section 20-670.

(Prior Code, § 22-18.1(a); Code 1994, § 14.20.030)

Sec. 20-668. Fire protection fee established.

There is created a fire protection fee which will be collected from each individual who is within the zone of influence of a fire hydrant provided by the city in its effort to enhance fire protection. The zone of influence of a fire hydrant shall include those properties to be served by that fire hydrant as set forth by the fire department, as mandated by the uniform fire code and the resolutions of the city council, as adopted by the city council from time to time. Individuals whose properties are located within the redevelopment district boundary as established by the planning commission and adopted by the city council are exempt from the payment of the fire protection fee.

(Prior Code, § 22-18.1(b); Code 1994, § 14.20.040; Ord. No. 34, 1983, § 2, 6-7-1983)

Sec. 20-669. Amount designated; collection.

The fire protection fee shall be set in accordance with section 1-38. The fee shall be payable at the time an individual whose property is within the zone of influence applies for a building permit for construction of a new building or for additions, alterations or repairs to any existing structure which will, within any 12-month period, exceed 50 percent of the value of that existing building or structure.

(Prior Code, § 22-18.1(c); Code 1994, § 14.20.050; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 20-670. Map of hydrants.

The city manager is directed to keep an official map which will have displayed on it those fire hydrants which have been installed by the city to meet current fire safety standards and the properties which are within the zone of influence of those hydrants. The official map will also have represented on it those hydrants required to be placed by the current fire code and city council resolutions.

(Prior Code, § 22-18.1(d); Code 1994, § 14.20.060)

Sec. 20-671. Developed areas included.

Sections 20-439 through 20-442 apply to developed areas of the city and in no way affect the requirements of the subdivision regulations for undeveloped real property.

(Prior Code, § 22-18.1(e); Code 1994, § 14.20.070)

Secs. 20-672--20-700. Reserved.

CHAPTER ~~14.24~~ 5. IRRIGATION

Sec. 20-701. Regulation of irrigation water.

In order to secure an equitable distribution of irrigation water among the irrigation water consumers, the director of water and sewer and his deputy or deputies shall, under the direction of the city manager, regulate the distribution of irrigation water to all the lots and parcels of land within the limits of the city.

(Prior Code, § 22-30; Code 1994, § 14.24.020; Ord. No. 39, 2019, exh. A, § 14.24.010, 9-17-2019)

Sec. 20-702. Control of headgates.

The headgates of city laterals from Canal No. 3, together with the headgates of sublaterals whereby water is drawn from such canals or laterals, shall be controlled only by the director of water and sewer or his deputies on his order.

(Prior Code, § 22-31; Code 1994, § 14.24.030; Ord. No. 39, 2019, exh. A, § 14.24.020, 9-17-2019)

Sec. 20-703. Water levels and checks.

The director of water and sewer shall, at all points where it may be found necessary, establish and maintain such water levels and checks as shall ensure to all private parties and to all sublaterals an equitable supply of irrigation water, at a minimum head, with the present established grade of the ditches of the city.

(Prior Code, § 22-32; Code 1994, § 14.24.040; Ord. No. 39, 2019, exh. A, § 14.24.030, 9-17-2019)

Sec. 20-704. Interference unlawful.

It is unlawful for any person to open any gate or gates or otherwise break and destroy any gate or check or cutting of any of the banks of the ditches, to obstruct the free flow of water by check or otherwise, to willfully allow gates in such ditches to be open and to run water thereby upon their own land or upon any street, alley or public grounds of this city, or in any other way to interfere with the regulations of the director of water and sewer or the provisions of this chapter.

(Prior Code, § 22-33; Code 1994, § 14.24.050; Ord. No. 39, 2019, exh. A, § 14.24.040, 9-17-2019)

Sec. 20-705. Irrigation rates fixed by water and sewer board.

Irrigation water rates shall be the minimum rate as approved by the water and sewer board, unless increased by resolution of the city council.

(Prior Code, § 22-34(a); Code 1994, § 14.24.060; Ord. No. 31, 1984, § 1(part), 4-17-1984; Ord. No. 39, 2019, exh. A, § 14.24.050, 9-17-2019)

Sec. 20-706. Payment due date; nonpayment.

It shall be the duty of the director of finance to collect such tax from all irrigation water consumers before April 20 in each and every year, and all irrigation water consumers neglecting or refusing to pay such tax on or before such date shall, until such tax is paid, be deprived of irrigation water by the director of water and sewer, whose duty it shall be to stop the supply of irrigation water to all lots or parcels of land on which the tax is unpaid on such day.

(Prior Code, § 22-34(b); Code 1994, § 14.24.070; Ord. No. 39, 2019, exh. A, § 14.24.060, 9-17-2019)

Secs. 20-707--20-725. Reserved.

CHAPTER ~~14.32~~ 6. WELD COUNTY MUNICIPAL AIRPORT

Sec. 20-726. Definitions adopted by reference.

All words used in this chapter shall have the same meaning as that ascribed to them in regulations promulgated by the civil aeronautics authority.

(Prior Code, § 6-1; Code 1994, § 14.32.010)

Sec. 20-727. Aircraft operation; violation.

No person shall operate any aircraft over or within the city or from the Weld County Municipal Airport in violation of any valid current air traffic or other rule or regulation established by the civil aeronautics authority.

(Prior Code, § 6-2; Code 1994, § 14.32.020)

Secs. 20-728--20-752. Reserved.

CHAPTER ~~14.36~~ 7. LINN GROVE CEMETERY

Sec. 20-753. Sale of spaces.

It shall be the duty of the cemetery administrator to keep an accurate record of all sales of burial spaces in Linn Grove Cemetery, showing the name of the right of interment/inurnment purchaser with the number of the space or spaces purchased. When any person selects a space or spaces, the cemetery administrator shall give such person a receipt and a right of interment/inurnment deed showing the legal description of such space or spaces and collect the fee for such space or spaces. The sale price of all cemetery spaces shall be set in accordance with section 1-38.

(Prior Code, § 8-1; Code 1994, § 14.36.010; Ord. No. 26, 2011, § 1, 9-6-2011; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-754. Interment; permits required.

No interment shall be made in this cemetery until the proper permits required by law and all the information necessary to complete the records of this cemetery have been furnished to the cemetery administrator, and the proper fees have been paid.

(Prior Code, § 8-2; Code 1994, § 14.36.020; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-755. Disinterment; permit required.

No interred corpse shall be removed from the cemetery after the burial of such without applicable state, county and municipal permits and authorizations. The cemetery administrator is instructed to refuse all burials or removals requested without full compliance with this section.

(Prior Code, § 8-3; Code 1994, § 14.36.030; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-756. Opening and closing graves; notice required.

The opening and closing of graves for an interment or disinterment in the cemetery shall be done by city employees. A notice of not less than 16 business hours must be given to ensure proper preparation of the grave.

(Prior Code, § 8-13; Code 1994, § 14.36.040; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-757. Contractor's permit required.

The representative or contractor of the owner of the grave space shall obtain an annual contractor's permit from the cemetery administrator and pay any fees before performing any work within the cemetery. The applicant for any contractor's permit must maintain liability insurance in an amount to be determined by the director of finance with proof of the same to be presented at the time of submission of the permit application.

(Prior Code, § 8-7; Code 1994, § 14.36.050; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-758. Contractor's permit refusal for designated cause.

The cemetery administrator shall have the right to refuse a contractor permit to persons or firms whose work is not satisfactory or whose employees disobey rules or violate ordinances regulating the cemetery.

(Prior Code, § 8-9; Code 1994, § 14.36.060; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-759. Perpetual care limitations.

The city shall undertake to give all spaces sold in Linn Grove Cemetery perpetual care, which shall include the maintenance of turf and grades thereon, but the city does not undertake and agree to make any repairs on any monuments, headstones, vaults or other improvements that are erected or placed on the space.

(Prior Code, § 8-5; Code 1994, § 14.36.070; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-760. Plantings and monument setting.

The city reserves the right to fully control the settings of monuments, plantings of any vegetation, placement of decorations and/or any work on cemetery grounds, and to adopt such rules and regulations for the governing of cemetery operations.

(Prior Code, § 8-6; Code 1994, § 14.36.080; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-761. Nonliability of city.

The city shall not be responsible for any deterioration or damage to any and all monuments, privately planted vegetation, decorations, ornaments, chairs, settees, vases, glass jars, artificial flowers, toys, watering cans or other articles placed by any party upon or in a space.

(Prior Code, § 8-8; Code 1994, § 14.36.090; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-762. Articles interfering with maintenance; removal.

The cemetery administrator shall have the right to remove enclosures or any kind of curbing or coping around

a space, decorations, ornaments, chairs, settees, vases, glass jars, artificial flowers, toys, watering cans or other articles which interfere with the watering, mowing and maintenance of Linn Grove Cemetery.

(Prior Code, § 8-10; Code 1994, § 14.36.100; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-763. Marker or monumental works.

The city shall reserve the right to prohibit the erection of any marker or monumental work that may be determined to be inappropriate, whether in material, design, workmanship or location or which might interfere with the general effect or obstruct any principal view. The city shall reserve the right to require the removal of any structure which the city deems to be offensive, improper or injurious to the appearance of the surrounding spaces or grounds. City authorities shall have the right and it shall be their duty to enter upon such space and remove the offensive or improper object, and they may do so without notice to the owner.

(Prior Code, § 8-11; Code 1994, § 14.36.110; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-764. Grades establishment.

The city shall establish the grades of spaces, walks and driveways and alter the same as the city deems requisite and proper to promote the general objectives of the cemetery.

(Prior Code, § 8-12; Code 1994, § 14.36.120; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-765. Unlawful acts.

It is unlawful for any person to willfully ride or drive upon any other place within the cemeteries, except in the platted driveways; or willfully deface, injure or destroy any monument, tomb, grave or gravestone, or any other object set to mark any grave; or break, injure or destroy any gate, fence, grass plot, shrub, tree or monument of any kind within the city cemeteries; or willfully violate any of the provisions of this chapter.

(Prior Code, § 8-4; Code 1994, § 14.36.130)

Sec. 20-766. Animals in Linn Grove Cemetery prohibited; exception.

(a) It is unlawful for any person to take an animal into Linn Grove Cemetery, regardless of whether the animal is on a leash or is confined, if notices have been properly posted by the cemetery administrator, or a designee thereof, to enforce the rules and regulations promulgated pursuant to section 20-767.

(b) It is not a violation of this section when the person with a disability, including, but not limited to, a blind, visually impaired, deaf, hard of hearing, or otherwise physically disabled person, is accompanied by an assistance animal specially trained for that person.

(Code 1994, § 14.36.140; Ord. No. 47, 1998, § 1, 8-18-1998; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Sec. 20-767. Authority.

(a) The cemetery administrator shall have the authority to enforce the rules and regulations for the property management, operation and control of the cemetery within the city and all rules and regulations adopted by the city council which affect or are applicable to the cemetery.

(b) Upon the discretion of the cemetery administrator, any such rules and regulations may be posted at conspicuous places in the cemetery in a manner which will give notice to the public of the proscribed behavior and the effective date thereof.

(Code 1994, § 14.36.150; Ord. No. 47, 1998, § 1, 8-18-1998; Ord. 38, 2016, § 1(exh. A), 12-20-2016)

Secs. 20-768--20-787. Reserved.

CHAPTER 8. FRANCHISES

ARTICLE ~~14.40~~ I. ELECTRIC LIGHT SYSTEM FRANCHISE

Sec. 20-788. Compliance.

It is unlawful to maintain or install any wires, cables or other equipment for the transmission of electric current impulses in, on, under or over any street, alley, sidewalk or other public place in the city or to maintain or install

any pole or mast to support or hold such wires or equipment in any such place, without having fully complied with the provisions of this chapter.

(Code 1994, § 14.40.010; Ord. No. 26, 1982, § 1, 5-18-1982)

Sec. 20-789. Franchise required.

After the effective date of the ordinance codified in this section, no such wire, cable, pole or other equipment shall be installed or maintained over, on or under any such place unless, pursuant to article XVIII of the Charter of the city, a franchise has been granted for such installation or maintenance. In order to permit the necessary time to obtain a franchise pursuant to article XVIII of the city Charter, any facilities described in section 20-788 which exist on the effective date of the ordinance codified in this section may continue to be maintained for a period of 180 days after the effective date of the ordinance codified in this section without the requirement of a franchise.

(Code 1994, § 14.40.020; Ord. No. 26, 1982, § 2, 5-18-1982)

Sec. 20-790. Specifications.

Any franchise granted pursuant to this chapter shall comply with all requirements of article XVIII of the Charter of the city and shall specify the fee to be paid for the franchise, the purpose of the facilities to be maintained or constructed under the franchise, and the manner in which any such facilities shall be installed or maintained. The franchise shall also specify the location in which any facilities may be installed or maintained and may provide for areas annexed to the city after the date of the franchise.

(Code 1994, § 14.40.030; Ord. No. 26, 1982, § 3, 5-18-1982)

Sec. 20-791. Supervision of work.

It shall be the duty of the director of inspections or his designee to supervise all construction or installation work performed subject to any franchise granted under this chapter and to make such inspections as may be necessary to ensure compliance with the provisions of the franchise, this chapter and other applicable ordinances of the city.

(Code 1994, § 14.40.040; Ord. No. 26, 1982, § 4, 5-18-1982)

Sec. 20-792. Purchase option.

(a) In the event a franchise is not approved or renewed pursuant to article XVIII of the city Charter or at the expiration of a franchise granted under the Charter, whether by termination, revocation or nonrenewal, the city shall have the option to purchase the noncomplying electric light system within the boundaries of the city and which the city may find necessary or desirable to the proper functioning and operation of an electric light system in the city.

(b) In order to avail itself of this option to purchase, the city shall give written notice to the electric light system operator of its desire to exercise its option, which notice shall be valid if given on or before the day the franchise shall so expire. On the exercise of this option by the city, the operator shall immediately transfer to the city possession and title to all facilities and property, real and personal, of the electric light system within the city which the city shall identify in its exercise of the option. Such property shall be free from all liens and encumbrances not agreed to be assumed by the city, unless the city has agreed to a reduction in the purchase price to offset any encumbrances the city may agree to accept.

(c) The operator shall execute such warranty deeds or other instruments of conveyance as shall be necessary for the transfer of its system to the city. The operator shall make it a condition of any contract entered into by it, in reference to its operations under the franchise, that the contract shall be subject to the exercise of this option by the city, and the city shall have the right to succeed to all privileges and obligations thereunder on the exercise of its option.

(d) The purchase price for the system of the operator shall be an amount equal to its full fair market value as an operating electric light system.

(e) Failure of the city and operator to agree on the price to be paid for the system shall not delay the performance required herein by the operator, that is the requirement to transfer the system to the city immediately following the exercise of the city's option to purchase. In the event, however, the price shall not be agreed upon within 60 days after the option shall have been exercised, then the operator shall be entitled to the statutory rate of

interest then being paid on judgments within the state from the time that the city shall have exercised its option and until the payment is finally made for the system.

(f) In the event that the city and operator fail to agree upon the price to be paid for the system, the parties shall refer the issue of fair market value to a board of qualified appraisers composed of one disinterested person appointed by the city and one disinterested person appointed by operator. If the two appraisers cannot agree on such value, they shall appoint a third disinterested person, and the determination of any two appraisers shall be binding. The expenses relating to the appraisal shall be borne equally by the operator and the city.

(Code 1994, § 14.40.050; Ord. No. 26, 1982, § 5(part), 5-18-1982; Ord. No. 21, 2002, § 1, 4-2-2002)

Sec. 20-793. Violation; penalty.

Any violation of any provision of this chapter shall be a violation of the ordinances of the city, punishable as provided in chapter 9 of title 1 of this Code. Each day upon which any violation shall continue shall constitute a separate offense punishable as such.

(Code 1994, § 14.40.060; Ord. No. 26, 1982, § 6, 5-18-1982)

Secs. 20-794--20-824. Reserved.

ARTICLE ~~14.50~~ II. GAS SYSTEM FRANCHISE

Sec. 20-825. Compliance.

It is unlawful to locate, build, construct, acquire, purchase, maintain, lease, contract to use or operate into, within and through the city, a plant or plant and works, for the purchase or distribution or works of gaseous fuels or mixtures thereof for consumption within the city, and to use such plant or works to furnish, sell or distribute gaseous fuels or mixtures thereof within the city and the inhabitants thereof for lighting, heating, cooling, mode of power or other purposes, by means of works consisting of pipes, mains or conduits, whether or not such means are owned, leased, used or otherwise, on, over, under, along, across and through all streets, alleys, viaducts, bridges, roads and lanes or other public ways and places in the city, without having fully complied with the provisions of this chapter and all other applicable ordinances of the city.

(Code 1994, § 14.50.010; Ord. No. 89, 1992, § 5(part), 11-2-1992)

Sec. 20-826. Franchise required.

After the effective date of the ordinance codified in this chapter, no such plant, plants and works, pipes, mains, conduits or contract to use thereof shall be installed, operated, maintained, used or under contract to use, any such place unless, pursuant to article XVIII of the Charter of the city, a franchise has been granted for such installation, operation, use or maintenance. In order to permit the necessary time to obtain a franchise pursuant to article XVIII of the city Charter, any plant, plants, works or contracts to use the same, described in section 20-825, which exists without a franchise on the effective date of the ordinance codified in this chapter, may continue to be maintained, operated or used for a period of 270 days after the effective date of the ordinance codified in this chapter without the requirement of a franchise, expressly subject to the provisions and requirements of section 20-830 during said 270-day period.

(Code 1994, § 14.50.020; Ord. No. 89, 1992, § 5(part), 11-2-1992)

Sec. 20-827. Specifications.

Any franchise granted pursuant to this chapter shall comply with all requirements of article XVIII of the Charter of the city and shall specify the fee to be paid for the franchise, the purpose of the facilities to be maintained, operated, constructed or contracted for the same, under the franchise, and the manner in which any such facilities shall be installed or maintained. The franchise shall also specify the location in which any facilities may be installed, maintained, operated or contracted for the same and may provide for areas annexed to the city after the date of the franchise.

(Code 1994, § 14.50.030; Ord. No. 89, 1992, § 5(part), 11-2-1992)

Sec. 20-828. Supervision of work.

It shall be the duty of the director of inspections or his designee to supervise all construction or installation work performed subject to any franchise or permit granted under this chapter and to make such inspections as may be necessary to ensure compliance with the provisions of the franchise, this chapter and other applicable ordinances of the city.

(Code 1994, § 14.50.040; Ord. No. 89, 1992, § 5(part), 11-2-1992)

Sec. 20-829. Purchase option.

(a) In the event a franchise is not approved or renewed pursuant to article XVIII of the city Charter or at the expiration of a franchise granted under the Charter, whether by termination, revocation or nonrenewal, the city shall have the option to purchase the noncomplying gaseous fuel system within the boundaries of the city and which the city may find necessary or desirable to the proper functioning and operation of a gaseous fuel system in the city unless otherwise provided by franchise.

(b) In order to avail itself of this option to purchase, the city shall give written notice to the owner and/or operator of its desire to exercise its option, which notice shall be valid if given on or before the day the franchise shall so expire. On the exercise of this option by the city, the owner and/or operator shall immediately transfer to the city possession of all facilities and property, real and personal, of the gas utility system within the city which the city shall identify in its exercise of the purchase option. Such property shall be free from all liens and encumbrances, unless the parties have agreed to a reduction in the purchase price to offset any encumbrances.

(c) The gas owner and/or operator shall execute such warranty deeds or other instruments of conveyance as shall be necessary for the transfer of its system to the city. The gas owner and/or operator shall make it a condition of any contract entered into by it, in reference to its permitted activities under the franchise or the permit fee option, that any such contract shall be subject to the exercise of this purchase option by the city, and the city shall have the right to succeed to all privileges and obligations thereunder on the exercise of the purchase option.

(d) The purchase price of the system, or part thereof, shall be an amount equal to its full fair market value as an operating gaseous fuel system.

(e) Failure of the city and owner and/or operator to agree on the price to be paid for the system shall not delay the transfer required herein by the owner and/or operator; that is, the requirement to transfer the system to the city immediately following the exercise of the city's option to purchase. However, in the event the price shall not be agreed upon within 60 days after the option shall have been exercised, then the owner and/or operator shall be entitled to the statutory rate of interest then being paid on judgments within the state from the time that the city shall have exercised its option and until the payment is finally made for the system.

(f) In the event that the city and owner and/or operator fail to agree upon the price to be paid for the system, or part thereof, the parties shall refer the issue of fair market value to a board of qualified appraisers composed of one disinterested person appointed by the city, and one disinterested person appointed by operator. If the two appraisers cannot agree on such value, they shall appoint a third disinterested person, and the determination of any two appraisers shall be binding. The expenses relating to the appraisal shall be borne equally by the operator and the city.

(Code 1994, § 14.50.050; Ord. No. 89, 1992, § 5(part), 11-2-1992; Ord. No. 21, 2002, § 1, 4-2-2002)

Sec. 20-830. Option of permit in lieu of franchise.

(a) There is granted an option for any owner, operator, wholesaler, supplier, lessee or contract user of gaseous fuel works within the city to furnish, purchase and distribute gaseous fuels within the city, either upon its own plant and plant works or plant and plant works of another, without first obtaining a franchise, by applying for and electing said option granted under this section and by paying to the city a fee in the amount of five percent of the cost of gas purchased from any supplier, other than a franchisee granted a franchise pursuant to the city Charter or permittee granted a permit pursuant to this section; plus a fee in the amount of five percent of all transportation of gas within the city. However, no fee for the cost of gas purchased under this section shall be assessed against the cost of gaseous fuels used as raw material or used for the generation of electricity.

(b) In lieu of the fee in the amount of five percent of the cost of gas purchased described in subsection (a) of

this section, any owner, operator, wholesaler, supplier, lessee or contract user of gaseous fuel works within the city that has purchased supplies of natural gas by separate agreement (transport gas) in accordance with a transportation service agreement of not less than one year in duration with a franchisee, as described in Colorado Public Utilities Commission, Number 7 Gas Fifth Revised Rate Sheet Number 23, or as subsequently revised, shall pay to the city a fee in the amount of $0.08 per each million cubic feet of natural gas used.

(c) Any franchise or permit option granted under this chapter allows the city, its agents and assigns, authority to inspect the books and records of any party granted a permit to produce and inspect its business records to determine the proper calculation in remittance of the fee amount.

(d) The fees established by this chapter shall be remitted within 30 days after the end of each calendar year quarter, unless otherwise determined by the city. Failure to remit said fees within such time shall automatically revoke said permit. On revocation of said permit, the permittee shall immediately cease distribution and supply of gaseous fuels and become subject to section 20-831 as to violations and penalties. At the city's option, all plant, plants and works shall be removed from the city right-of-way if a franchise expires or a permit or franchise is revoked.

(e) The city is authorized, as the condition of any franchise or permit granted under this chapter, to promulgate such reasonable regulations, procedures and rules as are necessary to ensure collection of all fees established pursuant to this chapter. To avoid inequity, a credit against such permit fee is granted to the permittee for any and all franchise or permit fees paid by the owner of the plant or works, which are based on the permittee's payment to the owner for the use of the owner's plant or works.

(Code 1994, § 14.50.060; Ord. No. 89, 1992, § 5(part), 11-2-1992; Ord. No. 29, 2008, § 1, 7-15-2008; Ord. No. 5, 2014, § 1, 3-18-2014)

Sec. 20-831. Permit and fee for use and occupancy of the public right-of-way.

(a) It is hereby required of any owner or lessee of the gaseous fuel plants or plants and works who does not have a current existing franchise to apply for and be granted a permit and to pay the city a monthly fee in the amount of $35,000.00 for the privilege to use and occupy the public right-of-way of the city, adjusted annually based upon increases or decreases to the nature and extent owners or lessees use and occupy the public right-of-way.

(1) The monthly fee in the amount of $35,000.00 shall be imposed without adjustments for the initial six-month period in which any owner or lessee of gaseous fuel plants or plants and works becomes subject to this section in order to provide time for said owner and lessee to negotiate and provide a mutually agreeable multi-year franchise.

(2) If on or before the end of the six-month period a mutually agreeable franchise agreement between the city council and the owner or lessee has been reached, the monthly fee shall continue to be in the amount of $35,000.00. If at the end of the six-month period, a mutually agreeable franchise agreement has not been reached between the city council and the owner or lessee, then the monthly fee for said owners or lessees of gaseous fuel plants or plants and works for use and occupancy of city rights-of-way shall be in the amount of $35,000.00, adjusted annually.

(b) The fee established by this section bears a reasonable relationship to value of the public right-of-way franchise fees established for other utilities and the use to which the owner, operator or lessee of the gaseous fuel plant works uses the public right-of-way for its plant and works.

(c) The fee required by this section shall be imposed and remitted by the owner, operator or lessee of gaseous fuel works, regardless of whether or not said owner, operator or lessee obtains the permit required by subsection (a) of this section. Fees established by this section shall be imposed against and remitted by all owners, operators and lessees of gaseous fuel plant works within the city who have not been granted a franchise pursuant to article XVIII of the city Charter, or whose franchise has not been renewed or has expired. The fee for the use and occupancy of the public right-of-way asset is continuing at all times the owner, operator or lessee of gaseous fuel plant works maintains gaseous fuel plant and works consisting of pipes, mains, conduits, on, over, along, across and through all streets, alleys, viaducts, bridges, roads and lanes and other public ways and places in the city.

(d) The fee established by this section shall be remitted each calendar month unless otherwise determined and authorized by the city in writing. The accounting, collection and remittance of fees shall be the responsibility

of the permittee. Failure to remit said fees within such time shall automatically revoke the permit. However, the fees shall continue to be imposed and due in accordance with subsection (c) of this section. The permittee shall be subject to section 20-832 regarding violations and penalties upon failure to obtain the permit or upon revocation or lapse of the permit.

(e) The city is authorized as a condition of any permit granted under this chapter to promulgate such reasonable regulations, procedures and rules as are necessary to ensure the collection of all fees established pursuant to this section.

(f) Any owner, operator or lessee of gaseous fuel plant and works who has obtained a permit and continues to pay the permit fee established by and under section 20-830 prior to the effective date of the ordinance codified herein is exempt from the requirements imposed by this section.

(Code 1994, § 14.50.065; Ord. No. 7, 1995, § 1, 2-7-1995; Ord. No. 22, 2002, § 1, 4-2-2002)

Sec. 20-832. Violation; penalty.

(a) Any violation of any provision of this chapter shall be a violation of the ordinances of the city, punishable as provided in chapter 9 of title 1 of this Code. Each day upon which any violation shall continue shall constitute a separate offense, punishable as such.

(b) Nothing in this section or other sections of this Code shall preclude the city from utilizing any and all applicable remedies for the collection and enforcement of the gas permit fee; any and all said remedies are cumulative in nature and not exclusive of each other.

(Code 1994, § 14.50.070; Ord. No. 89, 1992, § 5(part), 11-2-1992)

Secs. 20-833--20-857. Reserved.

ARTICLE ~~14.60~~ III. CABLE COMMUNICATIONS FRANCHISE

Sec. 20-858. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access channels means those channels which, by the terms of this chapter, are required to be kept available by grantee for partial or total dedication to public, educational or local government access.

Cable communications system means a system of antenna, coaxial cables, wires, lines, towers, wave guides or other conductors, converters, equipment or facilities designed, constructed or used primarily for the purpose of intercepting, receiving and amplifying audio, video and other forms of electronic or electrical signals and the distribution or transmission of such signals by means of cables or other similar devices to subscribers. This definition does not include any such system that serves or will serve only persons in one or more multiple-unit dwellings serving as nursing homes or health care facilities under common ownership, control or management and that does not use city or other public right-of-way.

Chapter or *this chapter* means this chapter of this Code.

~~*City* means the city of Greeley, or its successors. When the term *City* is used to refer to the territorial limits of the city of Greeley, it shall mean all territory within the boundaries of the city of Greeley as they now or shall hereafter exist, or such lesser portion of said territory as is specified in any franchise granted pursuant to this chapter.~~

~~*council* means the present governing body of the city, or any successor to the legislative powers of the present city council of the city.~~

Franchise means the permission, license or authority given pursuant to city Charter article XVIII to conduct and operate a cable communications system in the city.

Grantee means any person granted a franchise under the terms of this chapter.

~~*Person* means any individual or association of individuals, or any firm, corporation or other legally recognized entity.~~

Street means the surface of and the space above and below any public street, road, highway, freeway, lane,

path, alley, court, sidewalk, boulevard, parkway, drive, public way or place or other easement now or hereafter held by the city.

Subscriber means any person or entity receiving for any purpose the cable communications service of any grantee of a franchise under this chapter.

(Code 1994, § 14.60.010; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-859. Franchise required; regulations.

No person shall own or operate a cable communications system or other system, as defined in this chapter, in the city, except by franchise granted by the city, which shall comply with all the specifications of this chapter and sections 18-3 and 18-4 of the city Charter.

(Code 1994, § 14.60.020; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-860. Application and selection process.

(a) In awarding franchises pursuant to this chapter, except as provided in section 20-862, the city shall prepare a proposal for applications for installation and operation of a cable communications system. This proposal shall contain information and instructions relating to the preparation and filing of an application; conditions regarding the installation, operation and maintenance of a cable communications system under the franchise and the criteria to be used in evaluating applications. A notice of such proposal shall be published in one or more publications of general circulation chosen by the city. Applications shall be received for 60 days after the appearance of the published notice. Every such application shall be accompanied by a nonrefundable application processing fee in the amount of $25,000.00.

(b) Upon receipt of applications submitted pursuant to the proposal as provided in this section, the council shall set a date for a public hearing on the applications, notice of which hearing shall be published in a local newspaper of general circulation at least 14 days before the date of the hearing. The council shall evaluate the applications in accordance with the criteria set forth in section 20-861. The council may reject any and all applications at its pleasure and discretion at any time prior to the award of a franchise.

(c) Upon the selection of one or more applicants, the council, in accordance with section 18-3 of the city Charter, shall grant a franchise by majority vote, which shall be approved by ordinance.

(d) Upon the award of a franchise, the grantee thereof shall signify his acceptance of the franchise and the terms of this chapter by written notification to the city clerk and deposit with the finance director the franchise fee provided for in section 20-862, no later than ten days from the date of issuance of the franchise.

(Code 1994, § 14.60.030; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-861. Award; evaluation criteria.

In awarding a franchise, the council shall consider all relevant criteria, including, but not limited to:

(1) *Installation plan*. Preference may be given to an installation plan that would provide flexibility needed to adjust to new developments, maintenance practices and services that would be available to the subscriber and the community immediately and in the future.

(2) *Rate schedule*. Preference may be given to applicants with the most reasonable installation and subscriber rate schedules, so long as such rate schedule is consistent with a reasonable return on investment.

(3) *Financial soundness and capability*. Evidence of financial ability shall be such as to ensure an applicant's ability to accomplish significant construction toward completion of the entire system within one year of the date the grantee is registered with the Federal Communications Commission.

(4) *Demonstrated experience in operating a cable communications system under city franchise or permit*. Preference may be given upon evidence of an applicant's experience or an applicant's employees' experience in operating a cable communications system under city franchise or permit, where such evidence would show or tend to show or confirm the ability of an applicant to furnish sufficient and dependable service to the potential public and private users.

(Code 1994, § 14.60.040; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-862. Existing permits; regulations applicable.

The holder of any permit for a cable distribution system, cable television system or cable communications system must apply for a franchise within 30 days of November 3, 1981. The provisions of sections 20-860 and 20-861 shall not apply to current permit holders applying for a franchise, except that the nonrefundable application processing fee in the amount of $25,000.00 and the requirement for a majority vote of approval by city council on the question of granting a franchise pursuant to section 18-3 of the city Charter shall be required in all cases of application for, and the granting of, a franchise to operate a cable communications system pursuant to this chapter.

(Code 1994, § 14.60.050; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-863. Nature of franchise grant.

A grant of a franchise by the city under this chapter shall be a nonexclusive right, privilege and responsibility to construct, erect, operate and maintain a cable communications system with the city, and in so doing to use the streets of the city by erecting, installing, constructing, repairing, replacing, reconstructing, maintaining and retaining in, on, under, upon or across any such street such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and pertinent to a state-of-the-art cable communications system; and, in addition, so to use, operate and provide for all or part of such facilities by service offerings obtained from public utility companies franchised or operating within the city.

(Code 1994, § 14.60.060; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-864. Grant not exclusive.

A franchise granted under this chapter to operate a cable communications system in the city and to use and occupy the streets therefor is not and shall not be deemed to be an exclusive right or permission. The city expressly reserves the right to grant similar nonexclusive franchises to other persons to operate cable communications systems and to use the streets of the city therefor within the same or other areas of the city at any time or any period of time; provided, however, that nothing in this chapter shall be deemed to require the granting of additional franchises if, in the opinion of the council, it is not in the public interest to do so.

(Code 1994, § 14.60.070; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-865. Effect on other city laws and powers.

The granting of a franchise under this chapter shall not relieve the grantee thereof of any requirements of the city Charter or of any ordinance, rule, regulation or specification of the city now or hereafter enacted, or of any other exercise of the city's governmental and police powers to the full extent that such powers now or hereafter may be vested in or granted to the city.

(Code 1994, § 14.60.080; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-866. Existing permits; termination conditions.

(a) Subject to any constitutional limitations with respect to vested rights, all existing permits for operation of cable distribution systems, cable television systems or cable communications systems shall be null and void upon either:

(1) Failure, within 30 days after the final passage of the ordinance codified in this chapter, of the holder thereof to apply for a franchise under the provisions of sections 20-860 or section 20-862; or

(2) The approval or disapproval by majority vote of the city council of a franchise issued hereunder to such holder.

(b) Neither the adoption of this chapter nor the making or acceptance of any application for a franchise hereunder shall be construed either as confirming or enhancing or as refuting or diminishing any rights or obligations under any such existing permit.

(Code 1994, § 14.60.090; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-867. Services to be provided.

A grantee under this chapter shall furnish to its subscribers the services listed below:

(1) A minimum of 35 channels;

(2) A minimum of five access channels, to be included as part of the 35-channel service required by subsection (1) of this section, which shall be assigned to the following uses: one educational-access channel for the use of public and nonprofit private schools (other than schools of higher learning) in the city; one educational channel for the use of the University of Northern Colorado; three access channels to be used by the governments of the city and the county. In addition, the grantee will allocate additional channels up to a total of eight on an as-needed basis, with first preference going to one educational-access channel for use of Aims Community College when that institution is annexed to the city; one noncommercial public-access channel; and one specially designated channel for leased-access uses. In determining if additional access channels are needed, the grantee shall, within 30 days, make available a new access channel when any of the existing access channels is in use during 80 percent of the weekdays (Monday through Friday) for 80 percent of the time during any consecutive three-hour period for six consecutive weeks. Any access channel assigned to any of the above-mentioned uses may be made available to and used for other access uses, on a first-come, first-served basis, during periods of nonuse by the assigned user or users and if arrangements for use by an access user have not been made as of 48 hours before any viewing period, such channel may be used for other cable television purposes;

(3) A minimum of 13 separately processed FM stations;

(4) An audio override capacity for transmission of emergency messages.

(Code 1994, § 14.60.100; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-868. Technology level requirements.

A grantee shall build the latest state-of-the-art cable communications system once it commences construction and shall upgrade its facilities, equipment and services so that its system is as advanced as the current state of technology in general use will allow, but at no time shall such grantee be required to upgrade its facilities if it demonstrates that such upgrading would not be financially feasible or in the best interest of the city or its subscribers.

(Code 1994, § 14.60.110; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-869. Access facilities and public service installations.

(a) *Access facilities*. A grantee shall provide at least one access studio in the city, which shall be equipped to broadcast or to videotape programs simultaneously for use in producing programs for access channels, and shall include cameras, slide and film chain, portable cameras and recorders and other appropriate equipment. Such grantee shall also provide a mobile studio available to access channel users at all times. The cost of maintenance of the studio, mobile studio and all associated equipment shall be borne by such grantee. These facilities shall be made available free of charge to the governments of the city and the county, to the educational institutions to which access channels are assigned and to users of the noncommercial public-access channel. The governments of the city and the county, and the educational institutions to which access channels are assigned, shall be entitled to priority use of the facilities. All other users of access channels shall be granted use of these facilities on a first-come, nondiscriminatory basis.

(b) *Program content on access channels*. A grantee shall exercise no control over the content of the programming on access channels except as expressly provided in this subsection (b) or as required by FCC or other applicable laws, rules or regulations. To the extent permitted by FCC or other applicable laws, rules or regulations, a grantee shall prohibit the presentation of obscene or indecent material on all access channels and the presentation of any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office) on all access channels other than the leased-access channels.

(c) *Public service installations*. A grantee shall, within the city, provide single installations of its standard or basic services at each public building containing offices of the city government; each public library, hospital, fire and police station, public and nonprofit private school; and each building of the University of Northern Colorado. Such installations shall be made at such reasonable locations as shall be requested by the respective units of government or institutions, at the sole cost and expense of the grantee. Additional installations or relocation of installations or relocation of installations made pursuant to this chapter shall be performed and charged by the grantee at actual cost. No monthly service charges shall be made for distribution of grantee's standard or basic

service within the buildings enumerated in this subsection.

(Code 1994, § 14.60.120; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-870. City service priority over unincorporated areas.

A grantee shall have constructed its system sufficient to make its service available to substantially all of the residential, commercial and public buildings within the city before offering cable television services requiring the use of portions of its city cable communications system to buildings located in unincorporated areas outside the city's boundaries.

(Code 1994, § 14.60.130; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-871. Interconnection.

A grantee may, and is encouraged to, interconnect its cable communications system with other contiguous cable communications systems, and the grantee may interconnect with any other system or service. A grantee shall interconnect its system with any other system in the city when the council so requires.

(Code 1994, § 14.60.140; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-872. Performance standards.

(a) A grantee shall furnish the best possible signals available under the circumstances existing at the time and shall provide quality reception so that both sound and picture are produced free from visible and audible distortion and ghost images on standard television receivers in good repair.

(b) A grantee shall respond to all service calls within 24 hours to correct malfunctions as promptly as possible, but in all events within 48 hours after notice thereof; provided, however, that a reasonable additional amount of time for repairs shall be permitted where equipment failures or other circumstances warrant it. Such circumstances would include the unavailability of replacement equipment and a failure or malfunction affecting a significant portion of the grantee's system caused by storm, fire, lightning, explosion, civil commotion or other similar events.

(c) Except where there exists an emergency situation necessitating a more expedited procedure, a grantee may interrupt service, for the purpose of repairing or upgrading the system, only during periods of minimum use, and only after 24-hours' minimum notice to its subscribers.

(d) A grantee shall maintain a log showing the date, approximate time and duration of all service failures due to causes other than routine testing or maintenance.

(Code 1994, § 14.60.150; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-873. Complaint procedure.

(a) *Notice to subscribers of complaint procedure*. Upon commencing service and semiannually thereafter, a grantee shall notify all subscribers of the manner in which to register complaints and of the availability of review of complaints not satisfactorily resolved by such grantee through the arbitration panel provided for under subsection (c) of this section. Such notice shall state the address, telephone number and hours of the grantee's local office.

(b) *Record of complaints*. A grantee shall keep a written record of all complaints showing date, subscriber's name and address, nature of complaint and corrective action taken by the grantee. Such record shall be made available for inspection by the city manager on request.

(c) *Resolution of complaints by arbitration panel*. An arbitration panel shall have the responsibility for receiving and investigating those complaints regarding the performance of a grantee that the grantee has been unable to resolve to the satisfaction of any subscriber or potential subscriber. If the arbitration panel finds that the grantee has failed promptly to perform pursuant to the terms hereof, the panel may require the grantee to take such corrective action as may be deemed appropriate under the circumstances. Upon a failure by the grantee promptly to undertake and complete such corrective action to the satisfaction of the arbitration panel, the panel may declare the grantee in breach of the terms of this section. The arbitration panel shall be composed of the city manager or his designee, the manager of the grantee's cable distribution system or his designee and a neutral third party who shall be a resident of the city to be chosen by the grantee's representative and the city's representative. If the parties are unable to agree

upon a neutral third party, the American Arbitration Association shall submit to the parties a list of five individuals, none of whom shall be members of the city council or city employees or employees of the grantee. The parties shall independently strike two names from the list and list in order of preference the remaining names. The individual with the highest acceptability rating by both parties shall be selected as the neutral third party to side on the arbitration panel. The selection of the neutral third party shall be made in December of each year for a one-year term beginning in January and ending in December of the following calendar year.

(Code 1994, § 14.60.160; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-874. Service; local office required.

For the purpose of providing prompt and efficient handling of subscriber service requests, complaints, billing and payment and other matters, the grantee shall maintain and adequately staff a local business office in the city, which shall be open during normal business hours. Such office shall have a listed telephone number at which a representative of the grantee shall be available during normal business hours and at which service requests and complaints can be received at any time of day, Sunday through Saturday, and on holidays.

(Code 1994, § 14.60.170; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-875. Termination; disconnection of facilities.

On termination of service to any subscriber, a grantee shall promptly remove all of its facilities and equipment from the premises of such subscriber if the subscriber so requests. In any event, the facilities of the grantee shall be so constructed and designed that by the use of ordinary household tools and without special skills or knowledge and without reasonable risk or harm, the subscriber may be capable at any time of disconnecting the system of the grantee from the subscriber's television set or receiver so that said set or receiver may be used independently of the system or service of the grantee.

(Code 1994, § 14.60.180; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-876. Emergency use of facilities; conditions.

In the event of an emergency or disaster, a grantee shall, on request of the city manager or his designee, make available its facilities to the city for emergency use during the period of such emergency or disaster and shall provide such personnel as necessary to operate properly under the circumstances.

(Code 1994, § 14.60.190; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-877. Standby power equipment required.

A grantee shall install and maintain equipment capable of providing standby power for head-end and trunk amplifiers for a minimum of two hours.

(Code 1994, § 14.60.200; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-878. Changes following FCC modifications.

Any modification of the rules and regulations of the Federal Communications Commission shall be incorporated into any franchise granted pursuant to this chapter within one year of adoption of the modification, or at the time of franchise renewal, whichever occurs first, unless such modification shall, by operation of law, become effective at an earlier date.

(Code 1994, § 14.60.210; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-879. Period of validity; renewals.

(a) A franchise issued under this chapter shall be for a term of 12 years, unless the same shall sooner expire by reason of other provisions of this chapter.

(b) The effective date on which the term of a franchise shall commence shall be the first day of the first month next following the date a grantee hereunder accepts such franchise pursuant to section 20-862.

(c) Any renewal of a franchise granted under this chapter, or under superseded ordinances of the city relating to the subject matter of this chapter, shall be of a reasonable duration, not to exceed 12 years, to be determined by the city council after a public hearing.

(Code 1994, § 14.60.220; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-880. Revocation or forfeit.

In addition to all other rights and powers of the city by virtue of this chapter, the city may revoke, terminate, cancel and declare forfeit the franchise and all rights and privileges of the franchise thereunder for good cause. In determining whether to exercise its power under this section, the council may consider all relevant factors, including, but not limited to, the following:

(1) Failure of the grantee to construct the cable communications system in the manner or within the time specified in this chapter;

(2) Material breach or violation by the grantee of any provision of this chapter or of any franchise issued pursuant to this chapter or of any ordinance or regulation of the city;

(3) The practice of fraud or deception by the grantee upon the city or council, including, but not limited to, a purposeful attempt to evade or avoid any of the provisions of this chapter;

(4) The sale or attempted sale by the grantee of all or any part of the grantee's facilities without prior consent of the council;

(5) An attempt by the grantee to dispose of its property in order to prevent the city from purchasing the same if the city should exercise its option;

(6) Condemnation by the city of property within the city belonging to the grantee by lawful exercise of eminent domain;

(7) Default by the grantee in the making of payments under this chapter; and

(8) Application by the grantee for bankruptcy or for protection and reorganization under the federal bankruptcy statutes.

(Code 1994, § 14.60.230; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-881. Resolution required.

(a) Any revocation or declaration of forfeiture provided for in section 20-880 and this section, except by reason of the city's exercise of its option to purchase or condemnation, will be effective six months after the council shall have adopted a resolution setting forth the cause and reason for the revocation or declaration of forfeiture and the effective date thereof, which resolution shall not be adopted without 30 days' prior notice thereof to the grantee and an opportunity for the grantee to be heard on the proposed adoption of such resolution. If the revocation or declaration of forfeiture as proposed in such resolution depends on a finding of fact, such finding of fact as made by the council after the hearing provided for shall be conclusive, subject only to review as to whether the council has exceeded its jurisdiction or abused its discretion. The grantee shall be given notice of the council's determination and findings; and, thereupon, the grantee shall have six months' time in which to remedy the conditions respecting which such resolution shall have been adopted. If the conditions are corrected within six months, the council shall rescind its resolution of revocation or declaration of forfeiture. In the event the conditions have not been corrected after the expiration of such six-month period, the resolution of revocation or declaration of forfeiture shall be effective, and the franchise shall be revoked or declared forfeit.

(b) The procedure for revocation or declaration of forfeiture shall be the exclusive procedure available to the city and the grantee during the term of the franchise, and in no event will an election be required to revoke or declare forfeit a franchise.

(Code 1994, § 14.60.240; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-882. Fees; prepayment amount.

The grantee shall pay to the city a prepayment of franchise fees in the amount of $75,000.00. This fee shall be considered as a prepayment of the first calendar year's franchise fees. However, in no event is the city under any obligation to return the excess to the extent the actual percentage fee proves to be less than the prepayment.

(Code 1994, § 14.60.250; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-883. Annual payments.

During the term of a franchise, a grantee shall pay to the city, for use of its streets, public places and other facilities, as well as the maintenance, improvements and supervision thereof, an annual fee in the amount of five percent of the grantee's gross revenues, payable in equal monthly installments, such fee to commence on the effective date of the franchise as specified in section 20-879. Such monthly installment shall be due on the last business day of each calendar month and payable no later than the 15th day of the following month. In the event FCC regulations are amended to allow franchise fees in excess of five percent, the council shall review the yearly fee to be paid by the grantee and may adjust said fee by resolution in conformity with the amended FCC regulations.

(Code 1994, § 14.60.260; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-884. Fee not inclusive.

No acceptance of any payment shall, under sections 20-882 through 20-885, be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable as a franchise fee or for the performance of any other obligation hereunder.

(Code 1994, § 14.60.270; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-885. Fee not a tax.

The franchise fee shall not be considered in the nature of a tax but shall be in addition to any and all taxes which are now or hereafter required to be paid by any law of the city, the state or the United States.

(Code 1994, § 14.60.280; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-886. Liability insurance.

A grantee shall, concurrently with the filing of the acceptance of a franchise, furnish to the city and file with the city clerk, and at all times during the existence of a franchise, maintain in full force and effect at its own cost and expense, a liability insurance policy in the amount of $1,000,000.00 with a company licensed to do business in the state, and in a form satisfactory to the city attorney, indemnifying and defending the city, city council and any officers, boards, commissions, agents and employees thereof from and against any and all claims, demands, actions, suits and proceedings by others, against all liabilities to others, including, but not limited to, any liability for damages by reason of or arising out of any failure by the grantee to secure consents from the owners, authorized distributors or licensees of programs to be transmitted or distributed by the grantee, and against any loss, cost, expense and damages resulting therefrom, including reasonable attorneys' fees, arising out of the exercise or enjoyment of the franchise irrespective of the amount of the comprehensive liability policy required hereunder.

(Code 1994, § 14.60.290; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-887. Comprehensive liability insurance.

A grantee shall also, concurrently with the filing of its acceptance of a franchise, furnish to the city and file with the city clerk, and at all times during the term of a franchise maintain in full force and effect, at its own cost and expense, a general comprehensive liability insurance policy, with a company licensed to do business in the state, and in a form satisfactory to the city attorney, indemnifying and defending the city, city council and any officers, boards, commissions, agents and employees thereof, from and against all claims by any person whatsoever for loss or damage for personal injury, death or property damage occasioned by the operations of the grantee under the franchise, or alleged to so have been caused or occurred, with minimum liability limits of $500,000.00 for personal injury or death to any one person in any one occurrence, and $1,000,000.00 for personal injury or death to two or more persons in any one occurrence and $500,000.00 for damage to property resulting from any one occurrence.

(Code 1994, § 14.60.300; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-888. Other insurance.

A grantee shall also provide workers' compensation insurance as required by state law.

(Code 1994, § 14.60.310; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-889. Changes in insurance; notice to city required.

All insurance coverage shall provide for at least 30 days' prior written notice to the city clerk in the event of material alterations or cancellation of any coverage afforded in the policies, before such alteration or cancellation becomes effective.

(Code 1994, § 14.60.320; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-890. Insurance; effect limitations.

A grantee's maintenance of insurance policies required by sections 20-886 through 20-890 shall not be construed to excuse unfaithful performance by the grantee or to limit the liability of the grantee to the coverage provided in the insurance policies or otherwise to limit the city's recourse to any other remedy available under this chapter.

(Code 1994, § 14.60.330; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-891. Construction bond.

A grantee shall, concurrently with its acceptance of a franchise, file with the city clerk a corporate surety bond from a responsible company licensed to do business in the state in the amount of $500,000.00, conditioned that the grantee shall comply with all terms and conditions of this chapter relating to construction of the system, and upon the further condition that in the event the grantee fails to comply with any one or more of the construction requirements of this chapter, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the city as a result thereof, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the grantee as prescribed hereby, plus a reasonable allowance for attorneys' fees (including compensation for services rendered by the city attorney and his office) and costs, up to the full amount of the bond. The construction bond may be reduced in pro rata increments as construction requirements are completed and may be cancelled in its entirety upon completion of all construction.

(Code 1994, § 14.60.340; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-892. Performance bond.

Upon commencement of operation, the grantee shall obtain and file with the city a faithful performance bond in the amount of $250,000.00 and shall maintain said bond in full force and effect for the duration of the franchise and any renewal thereof and thereafter until the grantee has liquidated all of its obligations with the city that may have arisen from the acceptance of a franchise or renewal by the grantee or from its exercise of any privilege or right herein granted. Said bond shall be conditioned that the grantee shall observe, fulfill and perform each term and condition of this chapter, and that in the event of any breach of any condition of the bond, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the city resulting from any material breach by the grantee of any provision of this chapter, and shall include the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the grantee, plus a reasonable allowance for attorneys' fees (including compensation for services rendered by the city attorney and his office) and costs. Notwithstanding the above provisions of this section, the city council may, in its sole discretion, waive the bond or reduce the required amount thereof after two years of operation of a system under a franchise, by the grantee, its successors or assigns, which, in the sole opinion of the city council, has been satisfactory.

(Code 1994, § 14.60.350; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-893. Bonds; effect limitations.

The grantee's maintenance of the surety bonds required by sections 20-891 through 20-894 shall not be construed to excuse unfaithful performances by the grantee or to limit the liability of the grantee to the amount of such bonds or otherwise to limit the city's recourse to any other remedy available under this chapter.

(Code 1994, § 14.60.360; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-894. Changes in bonds; notice to city.

Any bond required by sections 20-891 through this section shall provide that at least 30 days' prior written notice of intention to cancel, materially change or not to renew must be given to the city by filing the same with the

city clerk.

(Code 1994, § 14.60.370; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-895. Liability limitations; indemnification by grantee.

A grantee shall, at its sole cost and expense, indemnify and hold harmless the city, city council and any officers, boards, commissions, agents and employees thereof, at all times during the term of the franchise, and shall pay all damages and penalties which the city may be legally required to pay as a result of granting the franchise or of engaging in any activity required by or permitted under this chapter. Such damages and penalties shall include, without limitation, damages arising out of copyright infringements and the construction, erection, operation, maintenance and repair of the cable communications system, whether or not any act or omission complained of is authorized, allowed or prohibited by this chapter. If legal action is filed against the city, either independently or jointly with the grantee to recover for any claim or damages, the grantee, upon notice to it by the city, shall defend the city against the action. In the event of a final judgment being obtained against the city, either independently or jointly with the grantee, whether by reason of the acts of the city or the grantee, the grantee shall pay the judgment and all costs and hold the city harmless therefrom. Nothing in this chapter shall be interpreted to abridge or otherwise affect the city's right to intervene or participate in any suit, action or proceeding involving any provisions of this chapter or any franchise granted hereunder. The grantee shall pay all expenses incurred by the grantee and by the city in defending with regard to all damages as set forth in this section. These expenses shall include, without limitation, all out-of-pocket expenses, attorneys' fees, witness and discovery costs and expenses and the reasonable value of any services rendered by the city attorney and his office, and any other agents and employees of the city.

(Code 1994, § 14.60.380; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-896. Performance guarantee escrow; deposit; purpose.

A grantee shall, concurrently with its acceptance of a franchise, deposit with the finance director a cashier's check in the amount of $5,000.00, payable to the city. Such funds shall be used to ensure the faithful performance by the grantee of all provisions of this chapter and any franchise granted hereunder; and compliance with all orders, permits and directions of any agency, commission, board, department, division or office of the city having jurisdiction over the grantee's acts or defaults; and the payment by a grantee of any claims, liens and taxes due the city which arise by reason of the construction, operation or maintenance of the cable communication system.

(Code 1994, § 14.60.390; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-897. Maintenance of escrow.

The performance guarantee escrow shall be maintained at the full amount stated in section 20-896 for the entire term of the franchise. The grantee shall restore the performance guarantee escrow to such full amount within 30 days after notification by the city of any withdrawal.

(Code 1994, § 14.60.400; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-898. Withdrawals by city.

The city shall be empowered to withdraw from the performance guarantee escrow the sums specified below as assessments for failure by the grantee to perform faithfully the following obligations:

(1) For the grantee's failure to comply with the complaint resolution mechanism of section 20-873, the council may assess the sum of $250.00 per day for each day or part thereof that the grantee fails to so comply;

(2) For the grantee's failure to comply with the timetable for installation of the system as required by section 20-927, the council may assess the sum of $250.00 per day for each day or part thereof that the grantee fails to so comply;

(3) For the grantee's failure to comply with the recordkeeping and filing requirements of sections 20-922 and 20-923, the council may assess the sum of $100.00 per day for each day or part thereof that the grantee fails to so comply;

(4) For the grantee's failure to comply with any other provision of this chapter relating to the installation, maintenance and operation of the cable communications system, the council may assess the sum of

$100.00 per day for each day or part thereof that the grantee fails to so comply;

(5) For the grantee's failure to make any payment to the city required under this chapter, including without limitation, the franchise fee required by sections 20-922 through 20-923, the cost and expense of indemnification under section 20-895 and the penalties imposed by sections 20-940 and 20-942, the council may authorize withdrawal from the performance guarantee escrow of the amount that the grantee has failed to pay.

(Code 1994, § 14.60.410; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-899. Notice of withdrawal; appeal.

(a) The city shall, within three days after making any withdrawal from the performance guarantee escrow, notify the grantee of such withdrawal.

(b) A grantee may, within ten days after such notification by the city, appeal such withdrawal by written notice to the city.

(c) The arbitration panel provided for in section 20-874, after considering the grounds advanced by the grantee, may in its sole discretion affirm, modify or reverse any withdrawal from the performance guarantee escrow. The arbitration panel's decision shall be final and binding.

(Code 1994, § 14.60.420; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-900. Passing along assessments prohibited.

The subscriber rates and charges imposed by the grantee shall not be increased or affected either directly or indirectly by reason of any payments the grantee may be required to make pursuant to sections 20-896 through 20-901.

(Code 1994, § 14.60.430; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-901. Effect limitations.

A grantee's maintenance of the performance guarantee escrow required by sections 20-896 through this section shall not be construed to excuse unfaithful performance by the grantee, to limit the liability of the grantee to the amount of the performance guarantee escrow or otherwise to limit the city's recourse to any other remedy available under this chapter.

(Code 1994, § 14.60.440; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-902. Use of existing poles and equipment.

(a) Except when absolutely necessary to service a subscriber and not simply because it shall be more convenient, economical or profitable for a grantee to so operate, and then only when expressly permitted in writing by the director of public works under such conditions as he shall prescribe for the public welfare, a grantee shall not erect or authorize or permit others to erect any poles or other facilities within the streets of the city for operation of its cable communications system, but shall use the existing poles and other equipment of the city, public utilities or other persons operating within the city.

(b) To that end, the grantee shall enter into agreements with the public utility companies or other persons for the joint use of their poles and equipment, or shall enter into agreements with the public utility companies or other persons whereby said companies or persons shall install, maintain, replace or repair the poles, lines and equipment required by the grantee on or along the streets of the city. However, nothing herein shall prohibit the resetting of any existing poles by the public utility companies or other persons when such poles are needed in the reasonable conduct of the business of such public utility companies or other persons, and will be used for the purposes other than and in addition to the conduct of the grantee's cable communications business.

(Code 1994, § 14.60.450; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-903. Undergrounding conditions.

Whenever, in any place within the city, all or any part of the electric or telephone utilities shall be located underground, it shall be the obligation of a grantee to locate or to cause its property to be located underground

within such places. If the electric or telephone utilities shall be located underground in any place within the city after the grantee shall have previously installed its property, nevertheless, the grantee shall, at the same time or immediately thereafter, remove and relocate its property also underground in such places. All location by the grantee of its property underground shall be at the sole cost and expense of the grantee. All of the grantee's property located underground shall be built to standards prescribed by the director of public works.

(Code 1994, § 14.60.460; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-904. Use by others required when.

Any poles or underground structures erected by a grantee under this chapter shall be available for use by the city, public utility companies and other persons upon payment of a reasonable use fee.

(Code 1994, § 14.60.470; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-905. Relocation conditions.

(a) Nothing in this chapter shall be in preference or hindrance to the right of the city, any person acting on behalf of the city or any public utility franchised by or operating within the city, to perform or carry on any public works or public improvements of any description.

(b) Whenever the city or any public utility franchised by or operating within the city shall require the relocation or reinstallation of any property of a grantee in, under or on any of the streets of the city, it shall be the obligation of the grantee, on notice of such requirement, immediately to remove and relocate or reinstall such property as may be reasonably necessary to meet the requirements of the city or such other utility as aforesaid, which such relocation, removal or reinstallation by the grantee shall be at the sole cost of the grantee.

(Code 1994, § 14.60.480; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-906. Temporary relocation for house-moving purposes.

A grantee shall, on the request of any person holding a building or moving permit issued by the city, temporarily raise or lower its wires or other property or relocate the same temporarily so as to permit the moving or erection of buildings. The expenses of any such temporary removal, raising or lowering of wires or other property shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. A grantee shall be given in such cases not less than 48 hours' prior written notice in order to arrange for the actions required.

(Code 1994, § 14.60.490; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-907. Safety requirements.

A grantee or any person, firm or corporation erecting, installing, constructing or maintaining any of the property used by or for the grantee shall at all times employ the highest degree of care required by the law under the facts and circumstances, and shall maintain and install the property of the grantee in accordance with commonly accepted methods and principles so as to prevent failures and accidents likely to or which may tend to cause damage, injury or nuisance to the public.

(Code 1994, § 14.60.500; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-908. Specifications for construction, installation and maintenance.

(a) Construction, installation and maintenance of the cable communications system shall be performed in an orderly and workmanlike manner. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple-cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

(b) A grantee shall at all times comply with:

(1) National Electrical Safety Code (National Bureau of Standards);

(2) National Electrical Code (National Bureau of Fire Underwriters);

(3) Bell System Manual of Construction Procedures, Bell System Code of Pole Line Construction and Buried Cable Standards; and

(4) Applicable FCC or other federal, state and local regulations, including such construction, installation and operational standards as may be adopted by the city from time to time.

(Code 1994, § 14.60.510; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-909. Location restrictions.

All of a grantee's cable communications facilities shall be so located as to cause minimum interference with the proper use of streets and so as to cause minimum interference with the rights and reasonable convenience of property owners abutting streets, and in no event shall any such facilities be located so as to substantially interfere with the usual public travel on any street of the city.

(Code 1994, § 14.60.520; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-910. Damage to public property.

Whenever a grantee shall cause or any person acting on its behalf shall cause any injury or damage to any public property or street, by or because of the installation, maintenance or operation of the cable communications system facilities, such injury or damage shall be immediately remedied in such fashion as directed by the director of public works unless ordinances of the city shall make other provisions therefor.

(Code 1994, § 14.60.530; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-911. Damage to private property.

Whenever a grantee shall cause or any person acting on its behalf shall cause any injury or damage to any private property by or because of the installation, maintenance or operation of its cable communications facilities, such injury or damage shall be repaired fully by the grantee.

(Code 1994, § 14.60.540; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-912. Tree trimming authorized.

A grantee shall have the authority to trim trees upon and overhanging the streets of the city so as to prevent the branches of such trees from coming in contact with the wires, cables and other facilities of the grantee, except that the city may require through its director of public works that such work be done at the expense of the grantee by the city or other person whom it shall designate.

(Code 1994, § 14.60.550; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-913. Street work; plans and permit required.

No installation of any cable communications facility shall be performed or conducted within any of the streets of the city unless plans therefor shall have been first submitted to the director of public works and a construction permit issued therefor.

(Code 1994, § 14.60.560; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-914. Failure to perform; completion by city; costs.

Upon any failure of a grantee to commence, pursue or complete any work required of it by law or by the provisions of this chapter to be done in any street, the city, at its option, may cause such work to be done, and the grantee shall pay to the city the cost thereof in the itemized amounts reported by the city to the grantee within 30 days after receipt of such itemized report.

(Code 1994, § 14.60.570; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-915. Removal and abandonment of property.

(a) If the use of any part of a grantee's cable communications system is discontinued for any reason for a continuous period of 180 days, or if such system has been installed in any street without complying with the requirements of this chapter or the grantee's franchise or the franchise has terminated or is revoked, the grantee shall promptly, on being given 30 days' prior notice, remove from the streets all its facilities other than those which the director of public works may permit to be abandoned in place. In the event of such removal, the grantee shall promptly restore the street from where such facilities have been removed to a condition satisfactory to the director

of public works, except that nothing in this subsection (a) shall apply to any purchase of the system or any part thereof by the city even though the franchise shall thereby be terminated or revoked.

(b) Any property of a grantee remaining in place 180 days after the termination or revocation of the franchise shall be considered permanently abandoned unless the director of public works has extended such time not to exceed an additional 60 days.

(c) Any property of a grantee to be abandoned in place shall be abandoned in such manner as the director of public works shall prescribe. On permanent abandonment of the property in place, the property shall become that of the city, and the grantee shall submit to the director of public works an instrument in writing, to be approved by the director of public works, transferring to the city the ownership of such property.

(d) If all or any part of the facilities used by or in the grantee's cable communications system shall be the property of any other person than the grantee, nevertheless such other person shall be subject to all of the provisions of this section, and any notice required herein, if given to the grantee, shall be deemed notice to such other person.

(Code 1994, § 14.60.580; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-916. Other business activities restricted.

Neither a grantee nor any officer or employee of such grantee shall engage directly or indirectly in the retail business of selling, repairing or installing television receivers, radio receivers or accessories for such receivers within the city during the term of the franchise.

(Code 1994, § 14.60.590; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-917. Discriminatory practices prohibited.

A grantee shall not deny service or access or otherwise discriminate against its subscribers, users or employees on the basis of race, color, religion, national origin, handicap or sex. The grantee shall comply at all times with all applicable federal, state and local laws and regulations, and all administrative and executive orders relating to nondiscrimination, which are hereby incorporated and made part of this chapter by reference.

(Code 1994, § 14.60.600; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-918. Preferential practices prohibited; exceptions.

A grantee shall not, as to rates, charges, service, service facilities, rules, regulations or in any other respect, make or grant any undue preference or advantage to any person, or subject any person to any undue prejudice or disadvantage; provided, however, that connection charges may be waived or modified during promotional campaigns of the grantee. This provision shall not be applicable to bona fide employees of the grantee.

(Code 1994, § 14.60.610; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-919. Cable tapping and monitoring prohibited.

Neither a grantee nor the city nor the council shall tap, monitor, arrange for the tapping or monitoring or permit, either expressly or impliedly, any other person to tap or monitor any cable, line, signal input device, subscriber outlet or receiver for any purpose whatsoever, including monitoring of individual viewing patterns, without the express permission of the subscriber. Notwithstanding the preceding sentences, the grantee shall be entitled to conduct system-wide or individually addressed sweeps for the purpose of verifying system integrity, controlling return-path transmissions or billing for pay services.

(Code 1994, § 14.60.620; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-920. Sale of subscriber lists prohibited.

A grantee shall not, without the specific authorization of the subscribers involved, sell or otherwise make available to any person or group of persons, lists of the names and addresses of its subscribers or any list which identifies the viewing habits of any individual subscriber, except as the same is necessary for the construction, marketing and maintenance of the grantee's facilities and services under this chapter and the concomitant billing of the subscribers for said services or as the same may be necessary to give leased-access channel users sufficient and pertinent information to make full use of said leased-access channel.

(Code 1994, § 14.60.630; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-921. Liability on access channels.

Liability for obscenity, defamation or invasion of privacy on any access channels shall rest with the person or group of persons utilizing such access channels.

(Code 1994, § 14.60.640; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-922. Grantee communications filed with city.

Copies of all petitions, applications and communications sent to or exchanged between a grantee and the Federal Communications Commission, Securities and Exchange Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any matter affecting cable communications system operations, so far as the same pertains to any aspect of the service or operations of the grantee in the city, shall also be submitted simultaneously to the city by filing the same with the city clerk.

(Code 1994, § 14.60.650; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-923. Recordkeeping and report requirements.

(a) A grantee shall annually file with the director of public works of the city true and accurate maps or plats of all existing and proposed installations on the streets of the city. The grantee shall also annually file with the city clerk a detailed list of the channels provided.

(b) In addition, the grantee shall file semiannually with the city clerk, within 60 days after the end of the grantee's fiscal year, a copy of its report to its stockholders if it prepares such a report, an income statement applicable to its operations during the preceding 12 months, a balance sheet and a statement of its properties devoted to cable communications operations, by categories and whether located within or without the city limits, giving its investment in such properties on the basis of original cost, less reasonable depreciation. These reports shall be prepared by a certified public accountant, and there shall be submitted with such reports such other reasonable information as the council shall request with respect to the grantee's properties and expenses related to its cable communications operations within the city.

(c) A grantee shall continually keep on file with the city clerk a current list of its shareholders and bondholders, officers and employees, with their current addresses.

(d) In addition, all books and records of the grantee concerning its operations within the city shall be made available for inspection and audit by the director of finance or such person as he shall have designated, within 30 days after any request for such inspection or audit shall be made.

(Code 1994, § 14.60.660; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-924. Sale or lease of franchise; conditions.

(a) The franchise shall be deemed a privilege to be held in personal trust by the grantee. It may not be sold, transferred, leased, assigned or disposed of in whole or in part either by forced or voluntary sale, merger, consolidation or otherwise, without the prior consent of the city council, expressed by resolution, and then only under such conditions as may therein be prescribed. The granting, giving or waiving of any one or more of such consents shall not render unnecessary any subsequent consent or consents.

(b) A grantee shall not have property rights in the franchise that the same may be affected, transferred or disposed of voluntarily or involuntarily without the consent of the council.

(c) Any transfer, assignment or other distribution of any of the rights under the franchise shall be made only by an instrument in writing, a duly executed copy of which shall be filed in the office of the city clerk no more than 30 days after such transfer or assignment shall have been executed or effected, and shall reflect therein the consent of the council thereto.

(d) A grantee, however, shall have the right, at any time, to mortgage or grant security interests on the whole of its system or any part thereof, provided that any such mortgage or security agreement shall be on the express condition that the rights of the mortgage or security holder shall be subject to the rights of the city under the terms of the franchise, including the rights of the city under section 20-926 to purchase all or a part of the system. Any

such mortgage shall not affect the rights of the city to purchase the system as a whole., provided that the holder of any mortgage or security interest has given to the city clerk written notice of the existence of such mortgage or security interest and of such holder's name and address, no proceedings shall be commenced to terminate or cancel the franchise prior to the expiration of its term, unless a written notice of the defaults which are alleged as grounds for such termination or cancellation have been delivered or mailed by certified mail to such holder at such address and such holder has failed to cure, or cause to be cured, such defaults within 45 days after the mailing or delivery of such notice. The consent of the council shall not be required for any transfer or assignment of the rights under the franchise, or title to the assets comprising the grantee's system, or for any change in, transfer of or acquisition by any other party of control of the grantee resulting from a foreclosure or other exercise of rights and remedies under any such mortgage or security agreement.

(e) A grantee shall promptly notify the council of any actual or proposed change in, transfer of or acquisition by any other party of, control of such grantee. The term "control," as used herein, is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the grantee shall make the franchise subject to revocation unless and until the council shall have consented thereto. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the council may inquire into the qualifications of the prospective controlling party, and the grantee shall assist the council in any such inquiry. If the council does not schedule a hearing on the matter within 60 days after notice of the change or proposed change and the filing of a petition requesting its consent, it shall be deemed to have consented. In the event that the council adopts a resolution denying its consent, and such change, transfer or acquisition of control has been effected, the council may revoke the franchise unless control of the grantee is restored to its status prior to the change or to a status acceptable to the council.

(Code 1994, § 14.60.670; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-925. City liability limitation; no recourse by grantee.

A grantee shall have no recourse whatsoever against the city or its officers, boards, commissions, agents or employees for any loss, cost, expense or damage arising out of any of the provisions or requirements of the franchise or because of the enforcement thereof by the city, nor for the city's lack of authority to grant all or any part of the franchise.

(Code 1994, § 14.60.680; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-926. City option to purchase system; conditions.

(a) At the expiration of a franchise granted under this chapter, whether by termination or revocation, the city shall have the option to purchase a grantee's entire cable communications system, including such portions thereof as may exist beyond the limits of the city and which the city may find necessary or desirable to the proper functioning and operation of the cable communications system in the city.

(b) In order to avail itself of this option to purchase, the city shall give written notice to the grantee of its desire to exercise its option, which notice shall be valid if given on or before the day the franchise shall so expire. On the exercise of this option by the city, the grantee shall immediately transfer to the city possession and title to all facilities and property, real and personal, of the cable communications system, including such portions as are located beyond the city which the city shall identify in its exercise of the option. Such property shall be free from all liens and encumbrances not agreed to be assumed by the city, unless the city has agreed to a reduction in the purchase price to offset any encumbrances the city may agree to accept.

(c) The grantee shall execute such warranty deeds or other instruments of conveyance as shall be necessary for the transfer of its system to the city. The grantee shall make it a condition of any contract entered into by it in reference to its operations under the franchise that the contract shall be subject to the exercise of this option by the city, and the city shall have the right to succeed to all privileges and obligations thereunder on the exercise of its option.

(d) The purchase price for the system of the grantee shall be an amount equal to its full fair market value as an operating cable television system. In order to elect to purchase any portion of the grantee's system under the within option, the city must elect to purchase the entire system.

(e) Failure of the city and grantee to agree on the price to be paid for the system shall not delay the

performance required herein by the grantee, that is the requirement to transfer the system to the city immediately following the exercise of the city's option to purchase. In the event, however, that the price shall not be agreed upon within 60 days after the option shall have been exercised, then the grantee shall be entitled to the statutory rate of interest then being paid on judgments within the state from the time that the city shall have exercised its option and until the payment is finally made for the system.

(f) In the event that the city and grantee fail to agree upon the price to be paid for the system, the parties shall refer the issue of fair market value to a board of qualified appraisers composed of one disinterested person appointed by the city and one disinterested person appointed by the grantee. If the two appraisers cannot agree on such value, they shall appoint a third disinterested person, and the determination of any two appraisers shall be binding. The expenses relating to the appraisal shall be borne equally by the grantee and the city.

(Code 1994, § 14.60.690; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-927. Initial installation of system; time limits.

(a) Within 90 days after the date of the granting of a franchise, the grantee shall start construction and installation of its cable communications system.

(b) The council may, on a showing that the grantee by using all reasonable diligence will not be able to start construction in such period of 90 days, grant such extension of time for initial commencement of construction as to the council may appear absolutely necessary.

(c) Within 12 months after the commencement of the construction of its cable communications system, the grantee shall be able and willing to render full service to the city.

(Code 1994, § 14.60.700; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-928. Extension to new subscribers.

After initial construction within the city as described in section 20-927, the grantee shall, whenever it shall receive requests for service from at least 50 subscribers within one mile from its existing system, extend such system to such subscribers at no cost to the subscriber for system extension other than usual connection fees for all subscribers. The one mile shall be measured in extension length of the grantee's cable required for service located within the public way or easements and shall not include length of the necessary service drop to the subscriber's home or premises. In addition, the council may, on complaint from any potential subscriber residing in the city, order the extension of the system to such subscriber after opportunity for hearing and notice to the grantee. In such cases, the council in its discretion may order such extension to any such subscriber only on a reasonable contribution from the subscriber to the cost of such extension. If the grantee and the subscriber are unable to agree upon a reasonable contribution, either of them may submit the matter for determination by the council. The council shall take into consideration the actual cost of such extension.

(Code 1994, § 14.60.710; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-929. Schedule of rates.

The initial schedule of rates, rentals and charges shall be set forth in the application required by section 20-860. No change in such rates shall be effective until 60 days after the grantee notifies the council of such change.

(Code 1994, § 14.60.720; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-930. Rate changes; conditions.

Subject to the notice and other provisions of sections 20-929 through 20-934, the rates, rentals and charges chargeable by the grantee for its services shall be as fixed from time to time by the grantee, and no approval or consent from the city shall be required with respect thereto; however, the city reserves the right, at such time as the council, after public hearing, determines at its option and sole discretion that such regulation is necessary in the best interest of the city and its residents, to require that thereafter any proposed increase in the rates, rentals and charges to be made by the grantee for its basic cable television services to subscribers residing within the city be filed with and approved by the council before the same are to become effective. In the event of the institution of such regulation, no proposed increase in any regulated rate, rental or charge shall be made effective except as approved by the council within 60 days after public notice of the proposed increase is given by the grantee to the council and

after a full open and public rate proceeding upon prior notice and opportunity of all interested parties to be heard; provided, however, that in the event the council fails to either grant or deny the proposed increase, in whole or in part, within such 60-day period, the proposed increase shall be deemed approved and shall become effective at the end of the 60-day notice period. Approval or disapproval by the council of any increase proposed by the grantee may be expressed by a simple resolution, and this chapter need not be amended for that purpose. A request for an increase in any regulated rate, rental or charge shall not be unreasonably denied.

(Code 1994, § 14.60.730; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-931. Advance charges and deposits.

A grantee may require subscribers to pay a deposit for converters and for connection to the cable communications system and to pay for each month of subscriber services in advance at the beginning of each month. No other advance payment or deposit of any kind shall be required by the grantee for subscriber services.

(Code 1994, § 14.60.740; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-932. Disconnection and reconnection.

There shall be no charge for disconnection of any connection to the cable communications system. If any subscriber fails to pay a properly due monthly subscriber fee, or any other properly due fee or charge, the grantee may disconnect the subscriber's connection to the cable communications system. Such disconnection shall not be affected until 45 days after the date of accrual of said delinquent fee or charge and intent to disconnect has been mailed to the subscriber. After disconnection, upon the payment of any delinquent fee or charge and the payment of the reconnection charge, if any, the grantee shall promptly reinstate the subscriber's cable service.

(Code 1994, § 14.60.750; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-933. Service to multifamily units.

The subscriber rates and charges imposed by the grantee with respect to service to multifamily units shall not be increased or affected, either directly or indirectly, by reason of any payment or payments which the grantee may make to the owner of any multifamily unit or any other person for the privilege of installing service or access to such multifamily units.

(Code 1994, § 14.60.760; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-934. Special promotions authorized.

It is not a violation of the provisions of sections 20-929 through 20-934 or sections 20-917 through 20-921 the grantee to engage in special promotional concessions regarding rates, such as waiver of a connection charge or offer of a first month's service free in conjunction with promotional campaigns to increase subscription to the system.

(Code 1994, § 14.60.770; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-935. Council approval of rules and regulations.

(a) Not later than 30 days after the granting of a franchise under this chapter, a grantee shall submit to the council for its approval proposed rules and regulations for the extension of service to subscribers and for a refund to subscribers for extended periods of interrupted service exceeding three days in the case of an interruption resulting from ice or wind storms, floods, fires or similar acts of God; or exceeding 24 hours in the case of an interruption from other causes. Such rules and regulations shall in all things be reasonable and without discriminatory effect between subscribers, shall be designed to secure prompt, efficient and desirable service to all subscribers and shall not conflict with the requirements of this chapter.

(b) If the council shall not object to rules and regulations proposed by the grantee within 30 days after said rules and regulations shall have been filed, the rules and regulations shall be deemed approved, but the grantee shall not thereafter modify or change said rules and regulations without first submitting any proposed changes or modifications to the council for its approval on like conditions.

(c) If the council rejects the rules and regulations within a period of 30 days or any subsequent modification or changes therein within a like period of time, the grantee shall be entitled in that event to a hearing before the council on the proposed rules and regulations or any changes or modifications therein within a reasonable time

thereafter.

(Code 1994, § 14.60.780; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-936. Notice procedures.

Whenever under the terms of this chapter either the city or a grantee shall be required or permitted to give notice to the other, such notice shall be in writing, and, if to be served on the city, it shall be delivered either by first-class United States mail or by handing such notice to the city clerk, at 919 Seventh Street, Greeley, Colorado 80631, and if to the grantee, then by delivering by first-class United States mail or by handing such notice to such officer at such address as the grantee shall from time to time direct. The original name and address of the officer on behalf of the grantee shall be included in the grantee's application for the franchise as provided in sections 20-859 through 20-866.

(Code 1994, § 14.60.790; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-937. Notification of new laws.

A grantee shall notify the city of the existence and effective date of any federal or state law or regulation affecting its performance under this chapter, as soon as it shall come to the knowledge of the grantee.

(Code 1994, § 14.60.800; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-938. Timely performance.

Whenever this chapter shall set forth any time for any action to be performed by or on behalf of the grantee, said time shall be deemed of the essence, and any failure of the grantee to perform within the time allotted shall always be sufficient grounds for the city to revoke or declare forfeit the franchise.

(Code 1994, § 14.60.810; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-939. Administration of chapter.

The title of the office that has primary responsibility for the continuing administration of the franchise and implementation of complaint procedures is the city manager.

(Code 1994, § 14.60.820; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-940. Theft of cable services; unlawful acts designated.

(a) A person commits theft of cable service if he knowingly:

(1) Obtains cable television service from a licensed or duly permitted cable television system without the authorization of the cable television system supplying said service;

(2) Makes or maintains a connection or connections, whether mechanically, electrically or acoustically, or attaches or maintains an attachment of any device or devices to any cable, wire or other component of a licensed or duly permitted cable television system without the authorization of such system or makes or maintains any modification or alteration to any device installed with the authorization of a licensed or duly permitted cable television system, but shall not include the attachment of a wire or cable to extend service he has paid for or which has been authorized;

(3) Willfully tampers with, removes or injures any cable, wires or other equipment used for the distribution of signals, pictures, programs, sounds or any other information or intelligence transmitted over a receiver's system; or

(4) Manufactures, distributes, sells or offers for sale, rental or use any decoding or descrambling device or any plan or kit for such device, designed in whole or in part to facilitate the doing of any of the acts specified in subsections (1) and (2) of this subsection (a).

(b) The provisions of this section do not apply to satellite dishes.

(Code 1994, § 14.60.830; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-941. Enforcement and compliance.

A grantee shall not be excused from complying with any of the terms or conditions of this chapter by any

failure of the city on any one or more occasions to insist on or to seek compliance with any such terms or conditions.

(Code 1994, § 14.60.840; Ord. No. 32, 2007, § 2, 7-17-2007)

Sec. 20-942. Penalty.

~~It shall be a misdemeanor punishable as provided in chapter 9 of title 1 of this Code for any person to violate any of the provisions of this chapter.~~ Any violation of this chapter shall be punishable as provided in chapter 9 of title 1 of this Code. Each day upon which any violation shall occur shall constitute a separate violation.

(Code 1994, § 14.60.850; Ord. No. 32, 2007, § 2, 7-17-2007)

Secs. 20-943--20-972. Reserved.

CHAPTER 9. SOLID WASTE

Sec. 20-973. Short title.

This article shall be known as the environmental sanitation code, may be cited as such, and will be referred to herein as this environmental sanitation code or this article.

(Prior Code, § 13-100; Code 1994, § 9.04.010)

~~9.04.020. Interpretation of terms; definitions generally.~~

~~For the purpose of this article I, definitions shall be construed as specified in this chapter. Words used in the singular include the plural and the plural, the singular. Words used in the masculine gender include the feminine, and the feminine, the masculine. Terms, words, phrases and their derivatives used but not specifically defined in this article I shall have the same meaning defined in chapter 1.04 of this Code, the Uniform Building Code and the Uniform Housing Code.~~

~~(Code 1994, § 9.04.020; Prior Code, § 13-101(part))~~

Sec. 20-974. Refuse defined.

For the purpose of this article ~~I~~, the term "refuse" means garbage and all other waste matter or discarded or unused material such as, but not limited to, salvage materials, scrap metal, scrap materials, bottles, tin cans, paper, boxes, crates, rags, used lumber and building materials, manufactured goods, appliances, fixtures, discarded furniture, machinery, motor vehicles or other such items which have been abandoned, demolished or dismantled, or are in such condition as to be unusable in their current state; discarded or inoperable vehicles, machinery parts and tires; and other materials commonly considered to be refuse, rubbish or junk. As used in this definition, the term "discarded furniture" shall also include, without limitation, upholstered furniture that is designed, manufactured and intended primarily for indoor use but is used or stored outdoors in any unroofed area or area where subject to weather conditions, whether the upholstered furniture is actually discarded or not.

(Prior Code, § 13-101(part); Code 1994, § 9.04.030; Ord. No. 43, 1994, § 1, 11-1-1994; Ord. No. 25, 1999, § 1(part), 6-15-1999)

~~9.04.040. Applicability.~~

~~The provisions of this Environmental Sanitation Code shall apply to all areas, territory, property, vacant lots and buildings within the city.~~

~~(Code 1994, § 9.04.040; Prior Code, § 13-102)~~

Sec. 20-975. Enforcement by ~~administrative authority~~ city manager or designee.

The ~~administrative authority~~ city manager or designee is authorized and directed to administer and enforce all of the provisions of this article.

(Prior Code, § 13-103; Code 1994, § 9.04.040)

Sec. 20-976. Administrative duties generally of ~~administrative authority~~ city manager or designee.

The ~~administrative authority~~ city manager or designee shall maintain public office hours necessary to effectively administer the provisions of this article, the environmental sanitation code and amendments thereto, and

shall examine, observe, inspect and check and cause to be brought into compliance all property within the city for violations of this article, the environmental sanitation code.

(Prior Code, § 13-104; Code 1994, § 9.04.060; Ord. No. 43, 1994, § 1, 11-1-1994)

Sec. 20-977. Right of entry.

If, after presentation of official credentials, the ~~administrative authority~~ city manager or designee is refused entry at a reasonable time into any building, structure or premises in the city, excluding living quarters, to perform any duty imposed by this article, such ~~authority~~ personnel shall not enter therein until ~~the authority has duly applied for and received an abatement order therefor in the manner provided by law~~ an abatement order has been applied for and received.

(Prior Code, § 13-105; Code 1994, § 9.04.070; Ord. No. 33, 1980, § 3, 5-20-1980; Ord. No. 46, 2006, § 1, 10-17-2006)

Title 21

RESERVED

Title 22

BUILDINGS AND CONSTRUCTION

CHAPTER 1. MASTER HEATING, AIR-CONDITIONING AND GASFITTING CERTIFICATION

Sec. 22-1. Master heating, air-conditioning and gasfitting certification required; apprentices.

No person shall do any heating, air-conditioning or gasfitting work in the city until he has reached the age of 21 years and has obtained certification from the city. A person, who shall be known as an apprentice, may work at the trade without a certification only under the direct supervision of a person who has obtained certification as set forth in this chapter.

(Code 1994, § 16.01.010; Ord. No. 39, 2016, § 1(exh. A), 12-20-2016)

Sec. 22-2. Master heating, air-conditioning and gasfitting certification requirements.

(a) Certification requirements shall include the following:

(1) Receiving a passing score on a test designed by the city's building inspection division for mechanical and gasfitting; or

(2) Passing both the International Code Council tests identified as the National Standard Master Mechanical and the National Standard Master Gas Pipe Fitter.

(b) Applicants in possession of a valid state journeyman or master plumber license shall only be required to pass the city test for mechanical and gasfitting or pass the national standard master mechanical test.

(c) Each applicant applying for the city certification shall have had five years direct, practical experience in the trade to be eligible to take the examination. Experience must be verifiable from previous employers by affidavit, as required by the policies and procedures established by the building inspection division.

(Code 1994, § 16.01.020; Ord. No. 39, 2016, § 1(exh. A), 12-20-2016)

Sec. 22-3. Use of name by others prohibited.

No person who has obtained this certification shall allow his name to be used by another person, either for the purpose of obtaining permits or for doing business or work under the certification.

(Code 1994, § 16.01.030; Ord. No. 39, 2016, § 1(exh. A), 12-20-2016)

Sec. 22-4. Work permitted; certification.

This certification shall qualify the holder of the certification to do gas piping, warm air heating and air cooling system work, and to maintain and repair existing facilities.

(Code 1994, § 16.01.040; Ord. No. 39, 2016, § 1(exh. A), 12-20-2016)

Sec. 22-5. Name and address of certified person.

Every person certified pursuant to this chapter shall notify the building inspections division of the address of his place of business and the name under which such business is carried on and shall give immediate notice to the building inspection division of any change in either.

(Code 1994, § 16.01.050; Ord. No. 39, 2016, § 1(exh. A), 12-20-2016)

Sec. 22-6. Certification suspension and revocation.

(a) The construction trades advisory and appeals board shall have the authority to suspend and/or revoke a certification pursuant to the authority set forth herein.

(1) The board shall be empowered to suspend a certification for an infraction or violation of the city Code, or the policies and procedures of the city, including, but not limited to, the following:

a. Failure to obtain a permit prior to initiating work on a project;

b. Creating a hazardous situation which endangers life and/or property;

c. Failure to correct a written violation notice within the allotted time.

(2) The board shall be empowered to revoke a certification for an infraction or violation of the city Code, or the policies and procedures of the city, including, but not limited to, the following:

a. Violation of section 22-2;

b. Creating a hazardous situation which endangers life and/or property;

c. Second or subsequent violations of failure to obtain a permit prior to initiating work on a project, creating a hazardous situation which endangers life and/or property, or failure to correct a written violation notice within the allotted time after having been previously suspended for such violation.

(b) The chief building official shall send notice of the alleged violation or infraction, as well as notice of the show-cause hearing, by mailing the same in writing to the certification holder at his last address of record.

(c) A hearing to suspend or revoke a certification shall be conducted by the board within 30 calendar days of the chief building official's written notice unless otherwise set by the board, but the date for such hearing shall not exceed 60 calendar days.

(1) The decision of the board may be appealed to the city council within 30 days of the board's final decision by submitting a notice of appeal to the chief building official.

a. The chief building official shall forward the appeal to the city council for consideration at the earliest practical time, but no later than 60 days following the submittal of the appeal.

b. During the course of an appeal of a suspension or revocation, all work shall cease except that work necessary to correct a hazardous situation or correct a written violations notice.

(Code 1994, § 16.01.060; Ord. No. 39, 2016, § 1(exh. A), 12-20-2016)

Secs. 22-7--22-30. Reserved.

CHAPTER 2. BUILDING CODE*

~~***Editor's note**—Ord. 47, 2016, §§1(Exh. A) and 2(Exh. B), adopted Dec. 20, 2016, repealed Ch. 16.04, §§ 16.04.010—16.04.220, and reenacted a new Ch. 16.04 as set out herein. The former Ch. 16.04 pertained to similar subject matter and derived from Ord. 34, 2012 §§1, 2.~~

Sec. 22-31. International Building Code adopted.

The International Building Code, 2018 edition, is hereby adopted by reference for the city, except as amended in this chapter, and is hereinafter referred to as the "building code." The building code is published by the International Code Council, Inc., 5360 Workman Mill Road, Whittier, CA 90601-2298. The building code provides the standards for the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings or structures.

(Code 1994, § 16.04.010; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. A, § 16.04.010, 9-3-2019)

Sec. 22-32. Additions, deletions and amendments to building code designated.

Sections 105.2, 109.3, 109.4, 109.6, 109.7, 110.3.5, 110.6, 113.1, 113.2, 113.3, 113.4, 114.1, 114.4, 406.3.2.1, 419.1.1(5), 1008.3, 1608.2, 1907.2 and 2707.1 of the building code are hereby enacted as amended, added or deleted to read as set out in sections 22-33 through 22-51.

(Code 1994, § 16.04.01=20; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. A, § 16.04.020, 9-3-2019)

Sec. 22-33. Section 105.2 amended; work exempt from permit.

(a) Sec. 105.2 of the building code is amended to read as follows:

(1) *Sec. 105.2 Work exempt from permit.* Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following: Building.

a. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11 m^2).

b. Fences not over 7 feet (2,134 mm) high.

c. Oil derricks.

d. Retaining walls that are not over 4 feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.

e. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,925 L) and the ratio of height to diameter or width does not exceed 2:1.

f. Painting, papering, tiling, carpeting, cabinets, countertops and similar finish work.

g. Temporary motion picture, television and theater stage sets and scenery.

h. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18,925 L) and are installed entirely above ground.

i. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.

j. Swings and other playground equipment accessory to detached one- and two-family dwellings.

k. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support.

l. Nonfixed and moveable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1,753 mm) in height.

Note: All flatwork requires a permit and shall comply with the applicable provisions of section 24-1022 of the Development Code.

(Code 1994, § 16.04.040; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-34. Section 109.3 amended; building permit valuations.

Sec. 109.3 of the building code is amended to read as follows:

109.3 Building permit valuations. The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building official, the value listed on the application is underestimated on the application, the building official may use the greater of either the application value, or the square foot value from the most recent building valuation data table, published in the Building Safety Journal, by the International Code Council. Final building permit valuation shall be set by the building official.

(Code 1994, § 16.04.050; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-35. Section 109.4 amended; work commencing before permit issuance.

Sec. 109.4 of the building code is amended to read as follows:

109.4 Work commencing before permit issuance. Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system governed by this code before obtaining the necessary permits shall be subject to a fee 200 percent of the usual permit fee.

(Code 1994, § 16.04.01=60; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-36. Section 109.6 amended; refunds.

Sec. 109.6 of the building code is amended to read as follows:

109.6 Refunds. The code official shall authorize the refunding of fees as follows:

a. The full amount of any fee paid hereunder that was erroneously paid or collected.

b. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

c. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid more than 180 days from the date of fee payment.

(Code 1994, § 16.04.065; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-37. Section 109.7 added; reinspections.

Sec. 109.7 of the building code is added to read as follows:

109.7. Re-inspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the building official.

To obtain a reinspection, the applicant shall pay the reinspection fee in accordance with the building permit fee schedule as set forth by the jurisdiction.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

(Code 1994, § 16.04.070; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-38. Section 110.3.5 exception deleted; lath and gypsum board inspection.

Sec. 110.3.5 Exception of the building code is deleted in its entirety.

(Code 1994, § 16.04.080; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-39. Section 110.6 amended; approval required.

Sec. 110.6 of the building code is amended to read as follows:

110.6 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official. There shall be a final inspection and approval of all systems, buildings, and structures, when completed and ready for occupancy and/or use.

(Code 1994, § 16.04.090; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-40. Section 113.1 amended; board of appeals; general.

Sec. 113.1 of the building code is amended to read as follows:

113.1 General. In order to provide for reasonable interpretation of the provisions of this code, to mitigate specific provisions of this code which provide practical difficulties in their application or enforcement, to determine the suitability of alternate materials and types of construction, and to hear appeals provided for hereunder, there is hereby established a construction trades advisory and appeals board consisting of eleven members.

A minimum of three persons from each of the building, plumbing/mechanical and electrical trades shall be appointed to the board. The three trade-specific groups of three members each shall have the right of final action in any matters pertaining to their specific trades. The appointing authority shall also appoint two at-large members who may be called by the board chair to hear appeals during the absence or disqualification of another member. The board shall select one of its members to serve as chair.

The chief building official shall be an ex officio member of and shall act as secretary to said board. The senior electrical inspector, senior plumbing/mechanical inspector, and the fire chief or his designee shall be ex officio members from city administration.

(Code 1994, § 16.04.100; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-41. Section 113.2 amended; board of appeals; limitations on authority.

Sec. 113.2 of the building code is amended to read as follows:

(1) *113.2 Limitations on authority.* The board shall render all decisions and findings in writing to the appellant. Copies of all rules of procedure adopted by the board shall be accessible to the public.

a. The construction trades advisory and appeals board shall have the authority to:

1. Interpret the administrative provisions of any of the adopted construction trade codes;

2. Review code enforcement policies related to construction, and make recommendations concerning such policies to city council;

3. Review proposed changes in the construction trade codes used by the city and make recommendations concerning such proposals to the council;

4. Review legislative proposals which mandate changes in construction trade codes or code enforcement procedures and make recommendations concerning such proposals to the council; and

5. Act in an advisory capacity to the council on matters concerning building construction and/or building inspection.

(b) The board, however, cannot by itself waive any of the requirements of this code.

(2) *113.3 Qualifications.* The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

(3) *113.4 Administration.* The building official shall take immediate action in accordance with the decision of the board.

(Code 1994, § 16.04.110; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-42. Section 114.1 amended; unlawful acts.

Sec. 114.1 of the building code is amended to read as follows:

114.1 Unlawful acts. It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building, structure or equipment regulated by this code in the city, or cause the same to be done, in conflict with or in violation of any of the provisions of this code.

(Code 1994, § 16.04.120; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-43. Section 114.4 amended; violation penalties.

Sec. 114.4 of the building code is amended to read as follows:

114.4 Violation penalties. Any person violating any of the provisions of this code is guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed, continued or permitted, and upon conviction of any such violation, such person shall be subject to punishment as provided in chapter 10 of title 1 of this Code.

(Code 1994, § 16.04.130; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-44. Section 406.3.4(1) amended; dwelling unit separation.

Sec. 406.3.2.1 of the building code is amended to read as follows:

The private garage shall be separated from the dwelling unit and its attic area by means of a minimum 5/8-inch (15.9 mm) Type X gypsum board or equivalent applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than 5/8-inch (15.9 mm) Type X gypsum board or equivalent. Where the separation is a floor-ceiling assembly, or the ceiling is providing separation, the structure supporting the separation shall also be protected by not less than 5/8-inch (15.9 mm) Type X gypsum board or equivalent. Door openings between a private garage and the dwelling unit shall be equipped with either solid wood doors or solid or honeycomb core steel doors not less than 1 3/8 inches (34.9 mm) thick, or doors in compliance with section 716.5.3 with a fire protection rating of not less than 20 minutes. Doors shall be self-closing and self-latching.

(Code 1994, § 16.04.140; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. A, § 16.04.140, 9-3-2019)

Sec. 22-45. Section 419.1.1(5) added; limitations.

Sec. 419.1.1(5) of the building code is added to read as follows:

(1) The nonresidential area is limited to a maximum occupant load of 49 as determined by Table 1004.1.2.

(Code 1994, § 16.04.160; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-46. Section 1008.3 amended; illumination emergency power.

Sec. 1008.3 of the building code is amended to read as follows:

1008.3 Emergency power for illumination. The power supply for means of egress illumination shall normally be provided by the premises' electrical supply.

1008.3.1 General. In the event of power supply failure in rooms and spaces that require two or more means of egress, an emergency electrical system shall automatically illuminate all of the following areas:

1. Aisles.
2. Corridors.
3. Exit access stairways and ramps.

1008.3.2 Buildings. In the event of power supply failure in buildings that require two or more means of egress, an emergency electrical system shall automatically illuminate all of the following areas:

1. Interior exit access stairways and ramps.
2. Interior and exterior exit stairways and ramps.
3. Exit passageways.
4. Vestibules and areas on the level of discharge used for exit discharge in accordance with section 1028.1.
5. Exterior landings as required by section 1010.1.6 for exit doorways that lead directly to the exit discharge.

1008.3.3 Rooms and spaces. In the event of power supply failure, an emergency electrical system shall automatically illuminate all of the following areas:

1. Electrical equipment rooms.

2. Fire command centers.
3. Fire pump rooms.
4. Generator rooms.
5. Restrooms and toilet rooms accessible to the public.

1008.3.4 Duration. The emergency power system shall provide power for a duration of not less than 90 minutes and shall consist of storage batteries, unit equipment or an on-site generator. The installation of the emergency power system shall be in accordance with the adopted National Electrical Code.

1008.3.5 Illumination level under emergency power. Emergency lighting facilities shall be arranged to provide initial illumination that is not less than an average of 1 footcandle (11 lux) and a minimum at any point of 0.1 footcandle (1 lux) measured along the path of egress at floor level. Illumination levels shall be permitted to decline to 0.6 footcandle (6 lux) average and a minimum at any point of 0.06 footcandle (0.6 lux) at the end of the emergency lighting time duration. A maximum-to-minimum illumination uniformity ratio of 40 to 1 shall not be exceeded. In Group I-2 occupancies, failure of any single lighting unit shall not reduce the illumination level to less than 0.2 footcandle (2.2 lux).

(Code 1994, § 16.04.170; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-47. Section 1507.2.9.4 added; sidewall flashing.

Sec. 1507.2.9.4 of the building code is added to read as follows:

1507.2.9.4 Sidewall flashing. Flashing against a vertical sidewall shall be by the step-flashing method. The flashing shall be a minimum of 4 inches (102 mm) high and 4 inches (102 mm) wide. At the end of the vertical sidewall the step flashing shall be turned out in a manner that directs water away from the wall and onto the roof and/or gutter.

(Code 1994, § 16.04.180; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-48. Section 1507.2.9.5 added; other flashing.

Sec. 1507.2.9.5 of the building code is added to read as follows:

1507.2.9.5 Other flashing. Flashing against a vertical front wall, as well as soil stack, vent pipe and chimney flashing, shall be applied according to the asphalt shingle manufacturer's printed instructions.

(Code 1994, § 16.04.190; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-49. Section 1608.2 amended; ground snow loads.

Sec. 1608.2 of the building code is amended to read as follows:

1608.2 Ground snow loads. The ground snow load (pg) shall equal 30 pounds per square foot (psf) in accordance with Colorado Design Snow Loads Report, published by the Structural Engineers Association of Colorado (Dated April 2016). The design roof snow load values shall be determined from section 1608 of the IBC (including all applicable factors, and loading and drifting considerations of chapter 7 of ASCE 7), however, in no case shall the final design roof snow load be less than a uniformly distributed load of 20 psf.

(Code 1994, § 16.04.195; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-50. Section 1907.2 added; nonbearing concrete flatwork.

Sec. 1907.2 of the building code is added to read as follows:

1907.2 Non-bearing concrete flatwork. Concrete flatwork for patios, porches, stoops, service walks, sidewalks, driveways and similar structures shall consist of a minimum 3 1/2 inches (89 mm) of concrete and shall be placed on undisturbed soil that possesses adequate load bearing capacity. Where fill is required to achieve the desired elevation, the fill shall consist of clean, graded and compacted gravel, crushed stone or crushed blast furnace slag passing a two-inch sieve. Disturbed soils such as found in the over-dig area surrounding a foundation shall be allowed to settle for a minimum of six months, or be mechanically

compacted, or adequate bearing capacity shall be determined by a geotechnical evaluation. The specified compressive strength of concrete shall be as set forth in section 1904.2. All flatwork shall comply with the applicable provisions of section 24-1022 of the Development Code.

(Code 1994, § 16.04.200; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-51. Section 2701.1 amended; scope.

Sec. 2701.1 of the building code is amended to read as follows:

2701.1 Scope. The provisions of this chapter and NFPA 70 shall govern the design, construction, erection and installation of the electrical components, appliances, equipment and systems used in buildings and structures covered by this code. The International Fire Code, the International Property Maintenance Code and NFPA 70 shall govern the use and maintenance of electrical components, appliances, equipment and systems. The International Existing Building Code and the adopted NFPA 70 shall govern the alteration, repair, relocation, replacement and addition of electrical components, appliances, or equipment and systems.

(Code 1994, § 16.04.210; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. A, § 16.04.210, 9-3-2019)

Secs. 22-52--22-75. Reserved.

CHAPTER 3. RESIDENTIAL CODE

~~**Editor's note**— Ord. 47, 2016 , §§1(Exh. A) and 2(Exh. B), adopted Dec. 20, 2016, repealed Ch. 16.06, §§ 16.06.010—16.06.500, and reenacted a new Ch. 16.06 as set out herein. The former Ch. 16.06 pertained to similar subject matter and derived from Ord. 34, 2012 §§1, 3.~~

Sec. 22-76. International Residential Code adopted.

The International Residential Code, 2018 edition, is hereby adopted by reference for the city, except as amended in this chapter, and is hereinafter referred to as the "residential code." The residential code is published by the International Code Council, Inc., 5360 Workman Mill Road, Whittier, CA 90601-2298. The residential code provides the standards for the design, erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of one- and two-family dwellings and townhouses.

(Code 1994, § 16.06.010; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. B, § 16.06.010, 9-3-2019)

Sec. 22-77. Additions, deletions and amendments to residential code designated.

Sections R105.2 (1), R108.3, R108.5, R108.6, R108.7, R109.4, R112, R113.1, R113.4, Table R301.2(1), R302.3(2), Table R302.6, R302.7, R302.11(3), R310.1, R310.5, R311.3.2, R328, R405.2.3, R405.2.3.1, R506.3, M1801.1, G2412.9, G2412.10, G2415.9, G2415.12, G2417.4.1, G2417.4.2, G2425.8(7), G2445, P2603.5, P2705.1(5), P2708.1, P2708.1(2), P2718.1, P2904.3.1, P2904.8.1, P2904.8.1(6), Table 3005.4.1, P3005.4.2, Table 3005.4.2, 3007.6, Table P3105.1, P3107.3, Table P3107.3, P3108.3, Table P3108.3, P3109.4, Table P3109.4, P3110.1, P3114.3, Table P3201.7 and Part VIII of the residential code are hereby enacted as amended, added or deleted to read as set out in sections 22-78 through 22-131.

(Code 1994, § 16.06.020; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. B, § 16.06.020, 9-3-2019)

Sec. 22-78. Section R105.2(1) amended; work exempt from permit.

Sec. R.105.2 (1) of the residential code is amended to read as follows:

R105.2 Work exempt from permit. Permits shall not be required for the following. Exemption from permit requirements of this Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Code or any other laws or ordinances of this jurisdiction.

Building:

1. One-story detached accessory structures, provided the floor area does not exceed 120 square feet (11.15 m 2).
2. Fences not over 7 feet (2,134 mm) high.
3. Retaining walls that are not over 4 feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2:1.

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6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
7. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
8. Swings and other playground equipment.
9. Window awnings supported by an exterior wall which do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support.
10. Decks not exceeding 200 square feet (18.58 m^2) in area, that are not more than 30 inches (762 mm) of this section grade at any point, are not attached to a dwelling and do not serve the exit door required by section R311.4.

Note: All flatwork requires a permit and shall comply with the applicable provisions of section 24-1022 of the Development Code.

Note: All flatwork requires a permit and shall comply with the applicable provisions of section 24-1022 of the Development Code.

(Code 1994, § 16.06.030; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. B, § 16.06.030, 9-3-2019)

Sec. 22-79. Section R108.3 amended; building permit valuations.

Sec. R108.3 of the residential code is amended to read as follows:

R108.3 Building permit valuations. The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building official, the value listed on the applicant is underestimated on the application, the building official may use the greater of either the application value or the square foot value from the most recent building valuation data table, published in the Building Safety Journal, by the International Code Council. Final building permit valuation shall be set by the building official.

(Code 1994, § 16.06.040; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-80. Section R108.5 amended; refunds.

Sec. R108.5 of the residential code is amended to read as follows:

108.5. Refunds. The code official shall authorize the refunding of fees as follows:

a. The full amount of any fee paid hereunder that was erroneously paid or collected.
b. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
c. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid more than 180 days from the date of fee payment.

(Code 1994, § 16.06.045; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-81. Section R108.6 amended; work commencing before permit issuance.

Sec. R108.6 of the residential code is amended to read as follows:

R108.6 Work commencing before permit issuance. Any person who commences work requiring a permit on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to 200 percent of the usual permit fee.

(Code 1994, § 16.06.050; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-82. Section R108.7 added; reinspections.

Sec. R108.7 of the residential code is added to read as follows:

R108.7 Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the building official.

To obtain a reinspection, the applicant shall pay the reinspection fee in accordance with the building permit fee schedule.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

(Code 1994, § 16.06.060; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-83. Section R109.4 amended; approval required.

Sec. R109.4 of the residential code is amended to read as follows:

R109.4 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official. There shall be a final inspection and approval of all systems, buildings, and structures, when completed and ready for occupancy and/or use.

(Code 1994, § 16.06.065; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-84. Section R112 amended; board of appeals.

Sec. R112 of the residential code shall be as described in sections 22-40 and 22-41.

(Code 1994, § 16.06.070; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-85. Section R113.1 amended; unlawful acts.

Sec. R113.1 of the residential code is amended to read as follows:

R113.1 Unlawful acts. It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building structure or equipment regulated by this code in the city, or cause the same to be done, in conflict with or in violation of any of the provisions of this code.

(Code 1994, § 16.06.080; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-86. Section R113.4 amended; violation penalties.

Sec. R113.4 of the residential code is amended to read as follows:

Any person violating any of the provisions of the code is guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the code is committed, continued or permitted, and upon conviction of any such violation, such person shall be subject to punishment as provided in chapter 10 of title 1 of this Code.

(Code 1994, § 16.06.090; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-87. Table R301.2(1) added; climatic and geographic design criteria.

Table 301.2(1) of the residential code is added to read as follows:

Table R301.2(1)

Climatic and Geographic Design Criteria

Ground Snow Load	*Wind Design*				*Seismic Design Category* [f]	*Subject to Damage From*		
	Speed [d] (mph)	Topographic Effects [k]	Special Wind Region [l]	Wind-borne Debris Zone [m]		Weathering [a]	Frost line depth [b]	Termite [c]
30 PSF	115	NO	NO	NO	B	Severe	30"	Slight to Moderate

Winter Design Temp [e]	Ice Barrier Underlayment Required [h]	Flood Hazards [g]	Air Freezing Index [i]	Mean Annual Temp [j]
1	NO	July 16, 1979, January 20, 2016, 080184A	1224	49° F

For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s.

(1) Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weathering column shall be filled in with the weathering index, "negligible," "moderate" or "severe" for concrete as determined from Figure R301.2(3) The grade of masonry units shall be determined from ASTM C 34, C 55, C 62, C 73, C 90, C 129, C 145, C 216 or C 652.

(2) The frost line depth may require deeper footings than indicated in Figure R403.1(1). The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.

(3) The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.

(4) The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map [Figure R301.2(4)A]. Wind exposure category shall be determined on a site-specific basis in accordance with section R301.2.1.4.

(5) The outdoor design dry-bulb temperature shall be selected from the columns of 97 1/2-percent values for winter from Appendix D of the International Plumbing Code. Deviations from the Appendix D temperatures shall be permitted to reflect local climates or local weather experience as determined by the building official.

(6) The jurisdiction shall fill in this part of the table with the seismic design category determined from section R301.2.2.1.

(7) The jurisdiction shall fill in this part of the table with; (a) the date of the jurisdiction's entry into the National Flood Insurance Program (date of adoption of the first code or ordinance for management of flood hazard areas); (b) the date of the flood insurance study; and (c) the panel numbers and dates of the currently effective FIRMs and FBFMs or other flood hazard map adopted by the authority having jurisdiction, as amended.

(8) In accordance with sections R905.1.2, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1 and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with "yes." Otherwise, the jurisdiction shall fill in this part of the table with "no."

(9) The jurisdiction shall fill in this part of the table with the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99 percent) value on the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32 degrees Fahrenheit)."

(10) The jurisdiction shall fill in this part of the table with the mean annual temperature from the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32 degrees Fahrenheit)."

(11) In accordance with section R301.2.1.5, where there is local historical data documenting structural damage to buildings due to topographic wind speed-up effects, the jurisdiction shall fill in this part of the table with "yes." Otherwise, the jurisdiction shall indicate "no" in this part of the table.

(12) In accordance with Figure R301.2(4)A, where there is local historical data documenting unusual wind conditions, the jurisdiction shall fill in this part of the table with "yes" and identify any specific requirements. Otherwise, the jurisdiction shall indicate "no" in this part of the table.

(13) In accordance with section R301.2.1.2.1, the jurisdiction shall indicate the wind-borne debris wind zone. Otherwise, the jurisdiction shall indicate "no" in this part of the table.

(Code 1994, § 16.06.110; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-88. Section R302.3 exception (2) deleted; two-family dwellings.

Sec. R302.3 Exception (2) of the residential code is deleted in its entirety.

(Code 1994, § 16.06.120; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-89. Table R302.6 amended; separation required.

Table R302.6 of the residential code is amended to read as follows:

Table R302.6

Dwelling/Garage Separation

Separation	*Material*
From the residence and attics	Not less than 5/8-inch Type X gypsum board or equivalent applied to the garage side
From all habitable rooms above garage	Not less than 5/8-inch Type X gypsum board or equivalent
Structures supporting floor/ceiling assemblies used for separation required by this section	Not less than 5/8-inch Type X gypsum board or equivalent
Garages less than 3 feet from a dwelling unit on same lot	Not less than 5/8-inch Type X gypsum board or equivalent applied to the interior side of exterior walls that are within this area

(Code 1994, § 16.06.130; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-90. Section R302.7 amended; under stair protection.

Sec. R302.7 of the residential code is amended to read as follows:

R302.7 Under stair protection. Enclosed accessible space under stairs that is accessed by a door or access panel shall have walls, under stair surface and any soffits protected on the enclosed side with 5/8-inch (15.9 mm) Type X gypsum board or equivalent.

(Code 1994, § 16.06.140; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. B, § 16.06.140, 9-3-2019)

Sec. 22-91. Section R302.11(3) amended; fireblocking.

Sec. R302.11(3) of the residential code is amended to read as follows:

(1) In concealed spaces between stair stringers at the top and bottom of the run, and between studs along, and in line with the run of stairs. Enclosed spaces under stairs shall comply with section R302.7.

(Code 1994, § 16.06.150; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-92. Section R310.1 amended; emergency escape and rescue required.

Sec. R310.1 of the residential code is amended to read as follows:

R310.1 Emergency escape and rescue required. Basements, habitable attics and every sleeping room shall have at least one operable emergency and rescue opening. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room. Unfinished basements shall have at least one emergency escape and rescue opening provided for each 500 square feet of basement area for a maximum of 1,500 square feet of basement area. Emergency escape and rescue openings shall open directly into a public way or to a yard or court that opens to a public way.

(Code 1994, § 16.06.160; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-93. Section R310.5 amended; emergency escape windows under decks and porches.

Sec. R310.5 of the residential code is amended to read as follows:

R310.5 Emergency escape windows under decks, porches and cantilevers. Emergency escape windows are allowed to be installed under decks, porches and cantilevers provided the location allows the emergency escape window to be fully opened and provides a path not less than 36 inches (914 mm) in height to a yard or court.

(Code 1994, § 16.06.170; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-94. Section R311.3.2 exception amended.

Sec. R311.3.2 Exception of the residential code is amended to read as follows:

Exception: A landing is not required where a stairway is located on the exterior side of a door, provided the door does not swing over the stairway, and is sufficiently glazed so as to afford a view of the stairway from the interior of the structure.

(Code 1994, § 16.06.180; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-95. Section R313.2 deleted; one- and two-family dwellings automatic fire sprinkler systems.

Sec. R313.2 of the residential code, adopted at section 22-76 is deleted in its entirety.

automatic residential fire sprinkler system shall be installed in one- and two-family

(Code 1994, § 16.06.185; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. B, § 16.06.185, 9-3-2019)

Sec. 22-96. Section R327 added; electric fences.

Sec. R328 of the residential code is added in its entirety to read as follows:

Sec. R328 Electric fences.

R328.1 Definition. For the purposes of this section, any fence using, carrying or transmitting an electrical current for any purpose is considered an electric fence.

R328.2 Permit required. In all cases, electric fences will require approval, and a building permit. All electrical components must be listed and labeled, by a nationally recognized independent testing agency, and installations must be made per the manufacturer's specifications, and the listing requirements.

R328.3 Signs. Permanent signs stating "DANGER, ELECTRIC FENCE" must be installed on or around the fence, as deemed necessary by the building inspection division.

R328.4 Location. All electric fences must be installed inside a non-electric fence, placed so as to prevent accidental contact from the outside. This subsection does not apply to approved agricultural uses.

R328.5 Existing fences. Any existing electric fence identified after the adoption of this code that does not conform to these requirements, shall have 60 days from the date of identification of the fence to come into compliance with these requirements, or the electric fence shall be removed.

(Code 1994, § 16.06.200; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. B, § 16.06.200, 9-3-2019)

Sec. 22-97. Section R405.2.3 amended; drainage system.

Sec. R405.2.3 of the residential code is amended to read as follows:

R405.2.3 Drainage system. Where it is not possible to convey the drainage by gravity, subsoil drains shall discharge to an accessible sump pit. A sump pit shall be at least 18 inches (457 mm) in diameter, 24 inches (610 mm) in depth, and provided with a fitted cover including rough-in discharge piping. The sump pump, if provided, shall have an adequate capacity to discharge all water coming into the sump as it accumulates to the required discharge point, and the capacity of the pump shall not be less than 15 gpm (1.0 L/s).

The discharge piping for the sump pump shall include the following:

1. Be one and one-half (1 1/2) inches in diameter;
2. Terminate within five feet horizontally of the sump pit;
3. Extend a minimum of 12 inches below the floor joists above;
4. Terminate at the exterior of the structure with a removable cap.

(Code 1994, § 16.06.210; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. B, § 16.06.210, 9-3-2019)

Sec. 22-98. Section R405.2.3.1 added; electrical.

Sec. R405.2.3.1 of the residential code is added to read as follows:

R405.2.3.1 Electrical. A 125-volt, 15-ampere, GFCI-protected, electrical receptacle outlet shall be installed within five feet of the sump pit location. The branch circuit feeding this outlet shall be a dedicated circuit.

(Code 1994, § 16.06.220; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-99. Section R506.3 added; nonbearing concrete flatwork.

Sec. R506.3 of the residential code is added to read as follows:

R506.3 Nonbearing concrete flatwork. Concrete flatwork for patios, porches, stoops, service walks, sidewalks, driveways and similar structures shall consist of a minimum 3 1/2 inches (89 mm) of concrete, and shall be placed on undisturbed soil that possesses adequate load bearing capacity. Where fill is required to achieve the desired elevation, the fill shall consist of clean, graded and compacted gravel, crushed stone or crushed blast furnace slag passing a two-inch sieve. Disturbed soils such as found in the over-dig area surrounding a foundation shall be allowed to settle for a minimum of six months, or be mechanically compacted, or adequate bearing capacity shall be determined by a geotechnical evaluation. The specified compressive strength of concrete shall be as set forth in section R402.2. All flatwork shall comply with the applicable provisions of section 24-1022 of the Development Code.

(Code 1994, § 16.06.230; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-100. Section M1801.1 amended; venting required.

Sec. M1801.1 of the residential code is amended to read as follows:

M1801.1 Venting required. Fuel-burning appliances shall be vented to the outside in accordance with their listing and label and manufacturer's installation instructions. Venting systems shall consist of approved chimneys or vents, or venting assemblies that are integral parts of labeled appliances. Gas-fired appliances shall be vented in accordance with title 24 of this Code.

(Code 1994, § 16.06.240; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-101. Section G2412.9 deleted; identification.

Sec. G2412.9 of the residential code is deleted in its entirety.

(Code 1994, § 16.06.245; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-102. Section G2412.10 deleted; third party testing and certification.

Sec. G2412.10 of the residential code is deleted in its entirety.

(Code 1994, § 16.06.246; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-103. Section G2415.9 amended; aboveground piping outdoors.

Sec. G2415.9 of the residential code is amended to read as follows:

G2415.9 Aboveground piping outdoors. All piping installed outdoors shall be elevated not less than 6 inches (152 mm) of this section ground and where installed across roof surfaces, shall be elevated not less than 6 inches (152 mm) of this section the roof surface. Piping installed aboveground, outdoors, and installed across the surface of roofs shall be securely supported and located where it will be protected from physical damage. Where passing through an outside wall, the piping shall also be protected against corrosion by coating or wrapping with an inert material. Where piping is encased in a protective pipe sleeve, the annular space between the piping and the sleeve shall be sealed.

(Code 1994, § 16.06.250; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-104. Section G2415.12 amended; minimum burial depth.

Sec. G2415.12 of the residential code is amended to read as follows:

G2415.12 Minimum burial depth. Metallic underground piping systems shall be installed a minimum depth of 18 inches (458 mm) of this section grade and plastic piping systems shall be 24 inches (710 mm), except as provided for in section G2415.12.1.

(Code 1994, § 16.06.260; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-105. Section G2417.4.1 amended; test pressure.

Sec. G2417.4.1 of the residential code is amended to read as follows:

G2417.4.1 Test pressure. The test pressure to be used shall be not less than 1 1/2 times the proposed maximum working pressure, but not less than 10 psig (20 kPa gauge), for a minimum of 15 minutes, irrespective of design pressure. For medium pressure gas and welded gas lines, the minimum test pressure shall be 60 psig for a minimum of 30 minutes. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe.

(Code 1994, § 16.06.270; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-106. Section G2417.4.2 deleted; test duration.

Sec. G2417.4.2 of the residential code is deleted in its entirety.

(Code 1994, § 16.06.280; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-107. Section G2425.8(7) deleted; equipment not required to be vented.

Sec. G2425.8(7) of the residential code is deleted in its entirety.

(Code 1994, § 16.06.290; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-108. Section G2445 deleted; unvented room heaters.

Sec. G2445 of the residential code is deleted in its entirety.

(Code 1994, § 16.06.300; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-109. Section P2603.5 amended; freezing.

Sec. P2603.5 of the residential code is amended to read as follows:

P2603.5 Freezing. Water, soil or waste pipe shall not be installed outside of a building, in exterior walls, in attics or crawl spaces, or in any other place subjected to freezing temperature unless adequate provision is made to protect it from freezing by insulation or heat or both. Water service pipe shall be installed not less than 12 inches (305 mm) deep and not less than 12 inches (305 mm) of this section the frost line.

(Code 1994, § 16.06.310; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-110. Section P2705.1(5) amended; general.

Sec. P2705.1(5) of the residential code is amended to read as follows:

P2705.1 General.

a. Water closets, lavatories and bidets. A water closet, lavatory or bidet shall not be set closer than 15 inches (381 mm) from its center to any side wall, partition or vanity or closet, or not less than 15 inches (381 mm) from the centerline of a bidet to the outermost rim of an adjacent water closet, or closer than 30 inches (762 mm) center-to-center between adjacent fixtures. There shall be at least a 24 inch (610 mm) clearance in front of the water closet, lavatory or bidet to any wall, fixture or door.

(Code 1994, § 16.06.320; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-111. Section P2708.1 amended; general.

Sec. P2708.1 of the residential code is amended to read as follows:

P2708.1 General. Shower compartments shall have at least 1,024 square inches (0.6 m^2) of interior cross-sectional area. Shower compartments shall be not less than 32 inches (813 mm) in minimum dimension measured from the finished interior dimension of the shower compartment, exclusive of fixture valves, showerheads, soap dishes and safety grab bars or rails. The minimum required area and dimension shall be measured from the finished interior dimension at a height equal to the top of the threshold and at a point tangent to its centerline and shall be continued to a height of not less than 70 inches (1,778 mm) of this section the shower drain outlet. Hinged shower doors shall open outward. The wall area above built-in tubs having installed showerheads and in shower compartments shall be constructed in accordance with section R702.4. Such walls shall form a water-tight joint with each other and with either the tub, receptor or shower floor.

Exceptions:

1. Fold-down seats shall be permitted in the shower, provided the required 1,024-square-inch (0.6 m^2) dimension is maintained when the seat is in the folded-up position.

(Code 1994, § 16.06.330; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-112. Section P2708.1 exception (2) deleted; general.

Sec. P2708.1 Exception (2) of the residential code is deleted in its entirety.

(Code 1994, § 16.06.340; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-113. Section P2718.1 amended; waste connection.

Sec. P2718.1 of the residential code is amended to read as follows:

P2718.1 Waste connection. The waste from an automatic clothes washer shall discharge through an air break into a standpipe in accordance with section P2706.2 or into a laundry sink. The trap and fixture drain for an automatic clothes washer standpipe shall be a minimum of 2 inches (51 mm) in diameter. The automatic clothes washer fixture drain shall connect to a branch drain or drainage stack a minimum of 2 inches (51 mm) in diameter.

(Code 1994, § 16.06.350; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-114. Section P2904.3.1 deleted; nonmetallic pipe and tubing.

Sec. P2904.3.1 of the residential code, adopted at section 22-76, is deleted in its entirety.

(Code 1994, § 16.06.351; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-115. Section P2904.8.1(6) deleted; preconcealment inspection.

Sec. P2904.8.1(6) of the residential code, adopted at section 22-76, is deleted in its entirety.

(Code 1994, § 16.06.352; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-116. P2904.8.1 amended; preconcealment inspection.

Sec. P2708.1 of the residential code is amended to read as follows:

P2904.8.1 Preconcealment inspection.

a. Piping is supported in accordance with the pipe manufacturers and sprinkler manufacturers installation instructions.

b. The piping system is tested in accordance with section P2503.7.

(Code 1994, § 16.06.353; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-117. Table P3005.4.1 amended; maximum fixture units allowed to be connected to branches and stacks.

Table P3005.4.1 of the residential code is amended to read as follows:

Table P3005.4.1

Maximum Unit Loading and Maximum Length of Drainage and Vent Piping

Size of Pipe, inches (mm)	*1¼ (32)*	*1½ (40)*	*2 (50)*	*2½ (65)*	*3 (80)*	*4 (100)*	*5 (125)*	*6 (150)>*	*8 (200)*	*10 (250)*	*12 (300)*
Maximum Units	1	2 [2]	16 [3]	32 [3]	48 [4]	256	600	1,380	3,600	5,600	8,400
Drainage piping [1]	1	1	8 [3]	14 [3]	35 [4]	216 [5]	428 [5]	720 [5]	2,640 [5]	4,680 [5]	8,200 [5]
Vertical/Horizontal											
Maximum Length											
Drainage piping [1]											
Vertical, feet	45	65	85	148	212	300	390	510	720	—	—
(m)	(14)	(20)	(26)	(45)	(65)	(91)	(119)	(155)	(228)	—	—
Horizontal(unlimited)											
Vent Piping (See note)											
Horizontal and Vertical											
Maximum units	1	8 [3]	24	48	84	256	600	1,380	3,600	—	—
Maximum lengths, feet	45	60	120	180	212	300	390	510	750	—	—
(m)	(14)	(18)	(37)	(55)	(65)	(91)	(119)	(155)	(228)	—	—

[1] Excluding trap arm.

[2] Except sinks, urinals and dishwashers.

[3] Except 6-unit traps or water closets.

[4] Only 4 water closets or 6-unit traps allowed on any vertical pipe or stack; and not to exceed 3 water closets or 6-unit traps on any horizontal branch or drain.

[5] Based on ¼ inch per foot (20.9 mm/m) slope. For 1/8 inch per foot (10.4 mm/m) slope, multiply horizontal fixture units by a factor of 0.8.

Note: The diameter of an individual vent shall not be less than 1 1/4 inches (31.8 mm) nor less than one-half the diameter of the drain to which it is connected. Fixture unit load values for drainage and vent piping shall be computed from Table P3004.1. Not to exceed 1/3 of the total permitted length of any vent may be installed in a horizontal position. When vents are increased one pipe size for their entire length, the maximum length limitations specified in this table do not apply.

(Code 1994, § 16.06.360; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-118. Section P3005.4.2 amended; building drain and sewer size and slope.

Sec. P3005.4.2 of the residential code is amended to read as follows:

P3005.4.2 Building drain and sewer size and slope. Pipe sizes and slope shall be determined from Table P3005.4.1 on the basis of drainage load in fixture units (d.f.u.) computed from Table P3005.4.1.

(Code 1994, § 16.06.370; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-119. Table P3005.4.2 deleted; maximum number of fixture units allowed to be connected to the building drain, building drain branches or the building sewer.

Table P3005.4.2 of the residential code is deleted in its entirety.

(Code 1994, § 16.06.380; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-120. Section P3007.6 amended; sewage ejectors or sewage pumps.

Sec. P3007.6 of the residential code is amended to read as follows:

P3007.6 Capacity. A sewage ejector, sewage pump or grinder pump receiving discharge from a water closet shall have minimum discharge velocity of 1.9 feet per second (0.579 m/s) throughout the discharge piping to the point of connection with a gravity building drain, gravity sewer or pressure sewer system. A nongrinding pump or ejector shall be capable of passing a 2-inch-diameter (38 mm) solid ball, and the discharge piping shall be not less than 2 inches (51 mm) in diameter. The discharge piping of grinding pumps shall be not less than 1 1/4 inches (32 mm) in diameter. A check valve and a gate valve located on the discharge side of the check valve shall be installed in the pump or ejector discharge piping between the pump or ejector and the drainage system. Access shall be provided to such valves. Such valves shall be located above the sump cover or, where the discharge pipe from the ejector is below grade, the valves shall be accessibly located outside the sump below grade in an access pit with a removable access cover.

Exception: Macerating toilet systems shall be permitted to have the discharge pipe sized in accordance with manufacturer's instructions, but not less than 0.75 inch (19 mm) in diameter.

(Code 1994, § 16.06.390; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-121. Table P3105.1 amended; distance of fixture trap from vent.

Table P3105.1 of the residential code is amended to read as follows:

Table P3105.1

Maximum Distance of Fixture Trap From Vent

Size of Trap (inches)	*Slope (inch per foot)*	*Distance From Trap (feet)*
1 1/4	1/4	2'6"
1 1/2	1/4	3'6"
2	1/4	5'
3	1/4	6'
4 and up	1/4	10'

(Code 1994, § 16.06.400; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-122. Section P3107.3 amended; connection at different levels.

Sec. P3107.3 of the residential code is amended to read as follows:

P3107.3 Connection at different levels. Where the fixture drains connect at different levels, the vent shall connect as a vertical extension of the vertical drain. The vertical drain pipe connecting the two fixture drains shall be considered the vent for the lower fixture drain, and shall be sized in accordance with Table P3005.4.1. The upper fixture shall not be a water closet.

(Code 1994, § 16.06.410; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-123. Table P3107.3 deleted; common vent sizes.

Table P3107.3 of the residential code is deleted in its entirety.

(Code 1994, § 16.06.420; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-124. Section P3108.3 amended; size.

Sec. P3108.3 of the residential code, adopted at section 22-76, is amended to read as follows:

P3108.3 Size. Horizontal and vertical wet vents shall be of a minimum size as specified in Table P3005.4.1, based on the fixture unit discharge to the wet vent. The dry vent serving the wet vent shall be sized based on the largest required diameter of pipe within the wet-vent system served by the dry vent.

(Code 1994, § 16.06.430; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-125. Table P3108.3 deleted; wet vent size.

Table P3108.3 of the residential code is deleted in its entirety.

(Code 1994, § 16.06.440; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-126. Section P3109.4 amended; waste stack size.

Sec. P3109.4 of the residential code is amended to read as follows:

P3109.4 Waste stack size. The waste stack shall be sized based on the total discharge to the stack and the discharge within a branch interval in accordance with Table P3005.4.1. The waste stack shall be the same size throughout the length of the waste stack.

(Code 1994, § 16.06.450; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-127. Table P3109.4 deleted; waste stack vent size.

Table P3109.4 of the residential code is deleted in its entirety.

(Code 1994, § 16.06.460; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-128. Section P3110.1 amended; circuit vent permitted.

Sec. P3110.1 of the residential code is amended to read as follows:

P3110.1 Circuit vent permitted. When approved by the authority having jurisdiction, a maximum of eight fixtures connected to a horizontal branch drain shall be permitted to be circuit vented. Each fixture drain shall

connect horizontally to the horizontal branch being circuit vented. The horizontal branch drain shall be classified as a vent from the most downstream fixture drain connection to the most upstream fixture drain connection to the horizontal branch.

(Code 1994, § 16.06.470; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-129. Section P3114.3 amended; where permitted.

Sec. P3114.3 of the residential code is amended to read as follows:

P3114.3 Where permitted. Individual vents, branch vents, circuit vents and stack vents serving a sink under a bearing wall, island sink installation, basement bar sink installation or locations approved by the building official shall be permitted to terminate with a connection to an air admittance valve. The air admittance valve shall only vent fixtures that are on the same floor level and connect to a horizontal branch drain.

(Code 1994, § 16.06.480; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-130. Table P3201.7 amended; size of traps and trap arms for plumbing fixtures.

Table P3201.7 of the residential code is amended to read as follows:

Table P3201.7

Size of Traps and Trap Arms for Plumbing Fixtures

Plumbing Fixture	*Trap Size Minimum (inches)*
Bathtub (with or without showerhead and/or whirlpool attachments)	1 1/2
Bidet	1 1/4
Clothes washer standpipe	2
Dishwasher (on separate trap)	1 1/2
Floor drain	2
Kitchen sink (one or two traps, with or without dishwasher and garbage grinder)	1 1/2
Laundry tub (one or more compartments)	1 1/2
Lavatory	1 1/4
Shower (based on the total flow rate through showerheads and bodysprays)	
Flow rate:	
12.3 gpm or less	2
More than 12.3 gpm up to 25.8 gpm	3
More than 25.8 gpm up to 55.6 gpm	4
Water closet	Note a

For SI: 1 inch = 25.4 mm.

[a] Consult fixture standards for trap dimensions of specific bowls.

(Code 1994, § 16.06.490; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-131. Part VIII amended; electrical.

Part VIII of the residential code is amended to read as follows:

Part VIII—Electrical. This chapter governs the electrical components, equipment and systems used in buildings and structures covered by this code. Electrical components, equipment and systems shall be designed

and constructed in accordance with the provisions of the adopted National Electrical Code. Other references within this code regarding electrical shall be considered amended to read "the adopted National Electrical Code."

(Code 1994, § 16.06.500; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Secs. 22-132--22-160. Reserved.

CHAPTER 4. MECHANICAL CODE

~~**Editor's note**— Ord. 47, 2016 , §§1(Exh. A) and 2(Exh. B), adopted Dec. 20, 2016, repealed Ch. 16.08, §§ 16.08.010 — 16.08.090, and reenacted a new Ch. 16.08 as set out herein. The former Ch. 16.08 pertained to similar subject matter and derived from Ord. 34, 2012 §§1, 4.~~

Sec. 22-161. International Mechanical Code adopted.

The International Mechanical Code, 2018 edition, is hereby adopted by reference for the city, except as amended in this chapter, and is hereinafter referred to as the "mechanical code." The mechanical code is published by the International Code Council, Inc., 5360 Workman Mill Road, Whittier, CA 90601-2298. The mechanical code provides the standards for the design, installation, alteration and inspection of mechanical systems within this jurisdiction.

(Code 1994, § 16.08.010; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. C, § 16.08.010, 9-3-2019)

Sec. 22-162. Additions, deletions and amendments to mechanical code designated.

Sections 106.5.3, 108.4, 108.5, 109, 202, 312.1, and 506.3.11 Exception, of the mechanical code are hereby enacted as amended, added or deleted to read as set out in sections 22-163 through 22-169.

(Code 1994, § 16.08.020; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-163. Section 106.5.3 amended; fee refunds.

Sec. 106.5.3 of the mechanical code is amended to read as follows:

106.5.3 Fee refunds. The code official shall authorize the refunding of fees as follows:

a. The full amount of any fee paid hereunder that was erroneously paid or collected.

b. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

c. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid more than 180 days from the date of fee payment.

(Code 1994, § 16.08.030; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-164. Section 108.4 amended; violation penalties.

Sec. 108.4 of the mechanical code is amended to read as follows:

108.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be ~~guilty of a misdemeanor,~~ punishable ~~as per~~ pursuant to chapter 10 of title 1 of this Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Code 1994, § 16.08.040; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-165. Section 108.5 amended; stop-work orders.

Sec. 108.5 of the mechanical code is amended to read as follows:

108.5 Stop work orders. Upon notice from the code official, work on any mechanical system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

(Code 1994, § 16.08.050; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-166. Section 109 amended; means of appeals.

Sec. 109 of the mechanical code shall be as described in sections 22-40 and 22-41.

(Code 1994, § 16.08.060; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-167. Section 202 amended; general definitions.

Sec. 202 of the mechanical code is amended to read as follows:

Light-duty cooking appliance. Light-duty cooking appliances include gas and electric ovens (including standard, bake, roasting, revolving, retherm, convection, combination convection/steamer and pastry), electric and gas steam-jacketed kettles, electric and gas compartment steamers (both pressure and atmospheric) and electric and gas cheesemelters.

Medium-duty cooking appliance. Medium-duty cooking appliances include electric discrete element ranges (with or without oven), electric and gas hot-top ranges, electric and gas griddles, electric and gas double-sided griddles, electric and gas fryers (including open deep fat fryers, donut fryers, kettle fryers and pressure fryers), electric and gas pasta cookers, electric and gas conveyor, deck or deck-style pizza ovens, electric and gas tilting skillets (braising pans) and electric and gas rotisseries.

(Code 1994, § 16.08.070; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-168. Section 312.1 amended; load calculations.

Sec. 312.1 of the mechanical code is amended to read as follows:

312.1 Load calculations. Heating and cooling system design loads for the purpose of sizing systems, appliances and equipment shall be determined in accordance with the procedures described in the ASHRAE/ACCA Standard 183. Alternatively, design loads shall be determined by an approved equivalent computation procedure, using the design parameters specified in chapter 3 [CE] of the International Energy Conservation Code. Any load calculations submitted to the jurisdiction shall bear the seal of a State of Colorado registered mechanical engineer.

(Code 1994, § 16.08.080; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-169. Section 506.3.11 exception deleted; duct enclosure not required.

Sec. 506.3.11 Exception of the mechanical code is deleted in its entirety.

(Code 1994, § 16.08.090; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Secs. 22-170--22-191. Reserved.

CHAPTER 5. PROPERTY MAINTENANCE CODE

~~**Editor's note**— Ord. 47, 2016 , §§1(Exh. A) and 2(Exh. B), adopted Dec. 20, 2016, repealed Ch. 16.10, §§ 16.10.010 — 16.10.150, and reenacted a new Ch. 16.10 as set out herein. The former Ch. 16.10 pertained to similar subject matter and derived from Ord. 34, 2012 §§1, 5.~~

Sec. 22-192. International Property Maintenance Code adopted.

The International Property Maintenance Code, 2018 edition, is hereby adopted by reference for the city, except as amended in this chapter, and is hereinafter referred to as the "property maintenance code." The property

maintenance code is published by the International Code Council, Inc., 5360 Workman Mill Road, Whittier, CA 90601-2298. The property maintenance code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

(Code 1994, § 16.10.010; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. D, § 16.08.010, 9-3-2019)

Sec. 22-193. Additions, deletions and amendments to property maintenance code designated.

Sections 106.4, 107.3, 108.1, 111.2, 202, 302.4, 302.8, 304.7, 304.14, 306.2, 308, 602.3 and 602.4 of the property maintenance code are hereby enacted as amended, added or deleted to read as set out in sections 22-194 through 22-196.

(Code 1994, § 16.10.020; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-194. Section 106.4 amended; violation penalties.

Sec. 106.4 of the property maintenance code is amended to read as follows:

106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof shall be subject to punishment as provided in chapter 10 of title 1 of this Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Code 1994, § 16.10.030; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-195. Section 107.3 amended; method of service.

Sec. 107.3 of the property maintenance code is amended to read as follows:

107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

a. Delivered personally;

b. Sent by certified or first-class mail addressed to the last-known address and a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice; or

c. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

(Code 1994, § 16.10.040; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-196. Section 108.1.1 amended; unsafe structures.

Sec. 108.1.1 of the property maintenance code is amended to read as follows:

108.1.1.1 *Preliminary assessment*. Following written notice and posting of the property declared as "condemned" in accordance with section 108.1 of the property maintenance code, and as a result of suspected contamination as a result of the discovery of chemicals, equipment or supplies indicative of an illegal drug laboratory or when such a laboratory used to manufacture methamphetamine is otherwise discovered by and reported to the city by a law enforcement official, the property owner has 21 calendar days in which to have a preliminary assessment of the property conducted by an industrial hygienist (consultant). If the results of the preliminary assessment exceed the limits set forth in 6 CCR 1014-3, a written plan must be provided by an approved remediation company of the planned actions to decontaminate the subject property.

108.1.1.2 *Time to commence remediation or demolition*. Based upon the findings of the consultant, and the review and approval of the decontamination plan by the building official, the property owner has 30 calendar days from the date of the building official's approval to commence remediation or demolition of the structure.

108.1.1.3 *Permits required—time to complete remediation and/or demolition*. The property owner shall obtain all necessary permits for the decontamination, remediation and/or demolition of the structure, which

work shall in any event not be completed any later than 120 calendar days from the date of the initial posting and condemnation of the property by the building official.

108.1.1.4 *Appeals*. Appeals by persons directed by the building official to take actions as described in this section are entitled to a hearing and review as described in sections 22-40 and 22-41.

Any violation of this section shall be punishable as provided in chapter 10 of title 1 of this Code.

(Code 1994, § 16.10.050; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-197. Section 111.2 amended; membership of board.

Sec. 111.2 of the property maintenance code shall be as described in sections 22-40 and 22-41.

(Code 1994, § 16.10.060; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-198. Section 202 amended; general definitions.

Sec. 202 of the property maintenance code is amended to read as follows:

Building official. The officer or other designated authority charged with the administration and enforcement of this code. Any reference to the code official throughout this code shall be deemed to have the same meaning as building official.

Habitable space. Space in a structure with permanent walls for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage, unfinished basements, or utility spaces, and similar areas are not considered habitable spaces.

Illegal drug laboratory. Areas where controlled substances, as defined by C.R.S. § 18-18-102, have been manufactured, processed, cooked, disposed of, used or stored and all proximate areas that are likely to be contaminated as a result of such manufacturing, processing, cooking, disposal, use or storing.

(Code 1994, § 16.10.070; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-199. Section 302.4 deleted; weeds.

Sec. 302.4 of the property maintenance code is deleted in its entirety.

(Code 1994, § 16.10.080; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-200. Section 302.8 deleted; motor vehicles.

Sec. 302.8 of the property maintenance code is deleted in its entirety.

(Code 1994, § 16.10.090; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-201. Section 304.7 amended; roofs and drainage.

Sec. 304.7 of the property maintenance code is amended to read as follows:

Sec. 304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that could admit rain. Roof drainage shall be adequate to prevent the possibility of dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roofwater shall not be discharged in a manner that creates a public nuisance.

(Code 1994, § 16.10.100; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-202. Section 304.14 amended; insect screens.

Sec. 304.14 of the property maintenance code is amended to read as follows:

304.14 Insect screens. Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging screened door shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

(Code 1994, § 16.10.110; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-203. Section 306.2 added; demolition.

Sec. 306.2 of the property maintenance code is added to read as follows:

306.2 Demolition. All structures completely or partially demolished within the city shall comply with the requirements of this section.

306.2.1 Approvals. A permit is required for all demolition. Permits shall not be issued until approval and any supporting documents are obtained from the following, as required by the building official.

1. Building inspection division.
2. Planning division.
3. Historical preservation division.
4. The Colorado Department of Public Health and Education.

306.2.2 Demolition. All building and accessory building components including the foundation walls, footings and concrete floors, walks and driveways shall be completely removed, unless previously approved by the building official to be incorporated into a future structure. All demolition material shall be removed from the site including wiring, plumbing, lumber, concrete, waste or other material. Material shall be disposed in an approved manner and location. During demolition, fugitive dust shall be controlled through the use of water to reduce the impact on adjacent properties.

306.2.3 Water service line. Water service lines shall be removed and terminated at the water meter pit shutoff valve or other location approved by the building official.

306.2.4 Sewer service line. Sewer service lines shall be removed and terminated within five feet of the property line or other location approved by the building official. Termination shall be by listed cap or concrete encasement.

306.2.5 Other utilities. All other utilities shall be removed and terminated within five feet of the property line, other location approved by the building official, or as determined by the utility.

306.2.6 Site grading. Clean backfill material with aggregate no larger than two inches shall be used to backfill the entire site to grade. Backfill shall occur in lifts not exceeding 12 inches, with compaction of each successive lift. The site shall be final graded so that water ponding will not occur and will have adequate drainage. Grading elevations shall conform to existing adjacent grades on all sides of the lot. The site shall be left in a clean and safe condition.

306.2.7 Inspections. The demolition site shall remain accessible and exposed for inspection purposes until approved. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

306.2.7.1 Preliminary inspection. Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

306.2.7.2 Required inspections. The building official, upon notification, shall make the inspections set forth in sections 306.2.7.2(1) through 306.2.7.2(4):

(i) *Clean excavation*. A clean excavation inspection shall be made after all concrete, construction and all other materials are removed from the excavation prior to backfill.

(ii) *Water service*. A water service inspection shall be performed after the service line is removed and terminated in the meter pit.

(iii) *Sewer service*. A sewer service inspection shall be performed after the service line has been removed or destroyed in place, the cap or concrete is in place, prior to backfilling the termination location.

(iv) *Final inspection*. A final inspection shall be made when all backfilling is complete, the final grade established and all debris has been removed from the site.

306.2.8 Safety requirements. If demolition occurs in areas where pedestrians may be present, suitable barriers and other protective measures must be provided and approved by the building official. In the event the demolition will interfere with traffic flow on a street or public way, signs and traffic controls must be provided and approved by the city public works department.

(Code 1994, § 16.10.120; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-204. Section 308 deleted; rubbish and garbage.

Sec. 307 of the property maintenance code is deleted in its entirety.

(Code 1994, § 16.10.130; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-205. Section 602.3 amended; heat supply.

Sec. 602.3 of the property maintenance code is amended to read as follows:

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68 degrees Fahrenheit (20 degrees Celsius) in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

a. When the outdoor temperature is below the winter outdoor design temperature for the city, maintenance of the minimum room temperature shall not be required, provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.

(Code 1994, § 16.10.140; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-206. Section 602.4 amended; occupiable workspaces.

Sec. 602.4 of the property maintenance code is amended to read as follows:

602.4 Occupiable workspaces. Indoor occupiable workspaces shall be supplied with heat to maintain a temperature of not less than 65 degrees Fahrenheit (18 degrees Celsius) during the period the spaces are occupied.

Exceptions:

a. Processing, storage and operation areas that require cooling or special temperature conditions.

b. Areas in which persons are primarily engaged in vigorous physical activities.

(Code 1994, § 16.10.150; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Secs. 22-207--22-235. Reserved.

CHAPTER 6. EXISTING BUILDING CODE

~~**Editor's note**— Ord. 47, 2016 , §§1(Exh. A) and 2(Exh. B), adopted Dec. 20, 2016, repealed Ch. 16.12, §§ 16.12.010 — 16.12.070, and reenacted a new Ch. 16.12 as set out herein. The former Ch. 16.12 pertained to similar subject matter and derived from Ord. 34, 2012 §§1, 6.~~

Sec. 22-236. International Existing Building Code adopted.

The International Existing Building Code, 2018 edition, is hereby adopted by reference for the city, except as amended in this chapter, and is hereinafter referred to as the "existing building code." The existing building code is published by the International Code Council, Inc., 5360 Workman Mill Road, Whittier, CA 90601-2298. The

existing building code provides the standards for the alteration, repair, addition, moving, change of occupancy and relocation of existing buildings.

(Code 1994, § 16.12.010; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. E, § 16.08.010, 9-3-2019)

Sec. 22-237. Additions, deletions and amendments to existing building code designated.

Sections 108.4, 112.1, and 113.4 of the existing building code are hereby enacted as amended, added or deleted to read as set out in sections 22-238 through 22-240.

(Code 1994, § 16.12.020; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. E, § 16.08.020, 9-3-2019)

Sec. 22-238. Section 108.4 amended; work commencing before permit issuance.

Sec. 108.4 of the existing building code is amended to read as follows:

108.4 Work commencing before permit issuance. Any person who commences work on a building or structure governed by this code before obtaining the necessary permits shall be subject to 200 percent of the usual permit fee.

(Code 1994, § 16.12.040; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-239. Section 112.1 amended; board of appeals.

Sec. 112.1 of the existing building code shall be as described in sections 22-40 and 22-41.

(Code 1994, § 16.12.050; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-240. Section 113.4 amended; violation penalties.

113.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who repairs or alters or changes the occupancy of a building or structure in violation of the approved construction documents or directive of the code official or of a permit or certificate issued under the provisions of this code shall be subject to punishment as provided in chapter 10 of title 1 of this Code.

(Code 1994, § 16.12.060; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-241. Section 1401.2 amended; applicability.

Sec. 1401.2 of the existing building code is amended to read as follows:

1401.2 Applicability. Structures existing at the time of adoption of this code in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of chapters 5 through 13. The provisions of sections 1401.2.1 through 1401.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Group H or Group I.

(Code 1994, § 16.12.070; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Secs. 22-242--22-260. Reserved.

CHAPTER 7. STREET STANDARDS

Sec. 22-261. Adoption of standards.

All streets within the city shall be constructed to the minimum standards established by the Greeley Street Standards, dated December 1, 1993, in order to safeguard the public health, safety and welfare of the citizens of the city. Copies of the Greeley Street Standards shall be kept and maintained by the city clerk and department of public works and shall be available for inspection at those locations during all business hours.

(Code 1994, § 16.14.010; Ord. No. 1, 1994, § 1, 1-18-1994)

Secs. 22-262--22-285. Reserved.

CHAPTER 8. ENERGY CONSERVATION CODE

Sec. 22-286. International Energy Conservation Code adopted.

The International Energy Conservation Code, 2018 edition, is hereby adopted by reference for the city, except as amended in this chapter, and is hereinafter referred to as the "energy conservation code." The energy conservation code is published by the International Code Council, Inc., 5360 Workman Mill Road, Whittier, CA 90601-2298. The Energy Conservation Code regulates the design and construction of buildings for the effective use of energy.

(Code 1994, § 16.16.010; Ord. No. 52, 2009, §§ 1, 7, 11-6-2009; Ord. No. 34, 2019, app. H, § 16.16.010, 9-3-2019)

Secs. 22-287--22-305. Reserved.

CHAPTER 9. PLUMBING CODE

~~**Editor's note**— Ord. 47, 2016 , §§1(Exh. A) and 2(Exh. B), adopted Dec. 20, 2016, repealed Ch. 16.28, §§ 16.28.010 — 16.28.240, and reenacted a new Ch. 16.28 as set out herein. The former Ch. 16.28 pertained to similar subject matter and derived from Ord. 34, 2012 §§1, 7.~~

Sec. 22-306. International Plumbing Code adopted.

The International Plumbing Code, 2018 edition, is hereby adopted by reference for the city, except as amended in this chapter, and is hereinafter referred to as the "plumbing code." The plumbing code is published by the International Code Council, Inc., 5360 Workman Mill Road, Whittier, CA 90601-2298. The plumbing code provides the standards for erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within this jurisdiction.

(Code 1994, § 16.28.010; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. F, § 16.28.010, 9-3-2019)

Sec. 22-307. Additions, deletions and amendments to plumbing code designated.

Sections 106.6.3, 108.4, 108.5, 109, 305.4, 405.3.1, 405.6, 406.2, 417.2, 421.4, 421.4 Exception, 712.4.2, 712.4.3, Table 906.1, Table 909.1, 914.1, 915.3, 918.3, 1003.3.4.1, 1103.1, 1113.1.2, and 1113.1.3 of the plumbing code are hereby enacted as amended, added or deleted to read as set out in sections 22-308 through 22-329.

(Code 1994, § 16.28.020; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. F, § 16.28.020, 9-3-2019)

Sec. 22-308. Section 106.6.3 amended; fee refunds.

Sec. 106.6.3 of the plumbing code is amended to read as follows:

106.6.3 Fee refunds. The code official shall authorize the refunding of fees as follows:

a. The full amount of any fee paid hereunder that was erroneously paid or collected.

b. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

c. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid more than 180 days from the date of fee payment.

(Code 1994, § 16.28.030; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-309. Section 108.4 amended; violation penalties.

Sec. 108.4 of the plumbing code is amended to read as follows:

108.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair plumbing work in violation of

the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be ~~guilty of a misdemeanor,~~ punishable ~~as per~~ pursuant to chapter 10 of title 1 of this Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Code 1994, § 16.28.040; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-310. Section 108.5 amended; stop-work orders.

Sec. 108.5 of the plumbing code is amended to read as follows:

108.5 Stop work orders. Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

(Code 1994, § 16.28.050; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-311. Section 109 amended; means of appeal.

Sec. 109 of the plumbing code shall be as described in sections 22-40 and 22-41.

(Code 1994, § 16.28.060; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-312. Section 305.4 amended; freezing.

Sec. 305.4 of the plumbing code is amended to read as follows:

305.4 Freezing. Water, soil and waste pipes shall not be installed outside of a building, in attics or crawl spaces, concealed in outside walls, or in any other place subjected to freezing temperature unless adequate provision is made to protect such pipes from freezing by insulation or heat or both. Exterior water supply system piping shall be installed not less than 12 inches (305 mm) of this section the frost line and not less than 12 inches (305 mm) of this section grade.

(Code 1994, § 16.28.070; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-313. Section 405.3.1 amended; water closets, urinals, lavatories and bidets.

Sec. 405.3.1 of the plumbing code is amended to read as follows:

405.3.1 Water closets, urinals, lavatories and bidets. A water closet, urinal, lavatory or bidet shall not be set closer than 15 inches (381 mm) from its center to any sidewall, partition, vanity or other obstruction, or closer than 30 inches (762 mm) center-to-center between adjacent fixtures. There shall be at least a 24-inch (609 mm) clearance in front of the water closet, urinal or bidet to any wall, fixture or door. Water closet compartments shall not be less than 30 inches (762 mm) wide or 60 inches (1,524 mm) deep. There shall be at least a 24-inch (609 mm) clearance in front of a lavatory to any wall, fixture or door.

(Code 1994, § 16.28.080; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-314. Section 405.5 amended; water-tight joints.

Sec. 405.6 of the plumbing code is amended to read as follows:

405.6 Water-tight joints. In facilities designed for public use, joints formed where fixtures come in contact with walls or floors shall be sealed.

(Code 1994, § 16.28.090; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. F, § 16.28.090, 9-3-2019)

Sec. 22-315. Section 406.2 amended; waste connection.

Sec. 406.3 of the plumbing code is amended to read as follows:

406.2 Waste connection. The waste from an automatic clothes washer shall discharge through an air break into a standpipe in accordance with section 802.4 or into a laundry sink. The trap and fixture drain for an automatic clothes washer standpipe shall be a minimum of 2 inches (51 mm) in diameter. The automatic

clothes washer fixture drain shall connect to a branch drain or drainage stack a minimum of 2 inches (51 mm) in diameter.

(Code 1994, § 16.28.100; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-316. Section 414.2 amended; waste connection.

Sec. 417.2 of the plumbing code is amended to read as follows:

417.2 Waste connection. Garbage can washers shall be located only in weather-tight enclosures and shall be trapped separately. The receptacle receiving the waste from the washer shall have a removable basket or strainer to prevent the discharge of large particles into the drainage system.

(Code 1994, § 16.28.110; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. F, § 16.28.110, 9-3-2019)

Sec. 22-317. Section 417.4 amended; shower compartments.

Sec. 421.4 of the plumbing code is amended to read as follows:

421.4 Shower compartments. All shower compartments shall have a minimum of 1,024 square inches (0.66 m^2) of interior cross-sectional area. Shower compartments shall not be less than 32 inches (813 mm) in minimum dimension measured from the finished interior dimension of the compartment, exclusive of fixture valves, showerheads, soap dishes, and safety grab bars or rails. Except as required in section 404, the minimum required area and dimension shall be measured from the finished interior dimension at a height equal to the top of the threshold and at a point tangent to its centerline and shall be continued to a height not less than 70 inches (1,778 mm) of this section the shower drain outlet.

(Code 1994, § 16.28.120; Ord. No. 34, 2019, app. F, § 16.28.120, 9-3-2019)

Sec. 22-318. Section 417.4 deleted; exception, shower compartments.

Sec. 421.4, Exception, of the plumbing code is deleted in its entirety.

(Code 1994, § 16.28.130; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. F, § 16.28.130, 9-3-2019)

Sec. 22-319. Section 712.4.2 amended; capacity.

Sec. 712.4.2 of the plumbing code is amended to read as follows:

712.4.2 Capacity. A sewage pump or sewage ejector shall have the capacity and head for the application requirements. Pumps or ejectors that receive the discharge of water closets shall be capable of handling spherical solids with a diameter of up to and including 2 inches (51 mm). Other pumps or ejectors shall be capable of handling spherical solids with a diameter of up to and including 1 inch (25.4 mm). The minimum capacity of a pump or ejector based on the diameter of the discharge pipe shall be in accordance with Table 712.4.2.

Exceptions:

a. Grinder pumps or grinder ejectors that receive the discharge of water closets shall have a minimum discharge opening of 2 inches (51 mm).

(Code 1994, § 16.28.140; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-320. Section 712.4.3 added; public use.

Sec. 712.4.3 of the plumbing code shall be added to read as follows:

712.4.3 Public use. Sumps and receiving tanks in occupancies for public use shall be provided with dual pumps or ejectors arranged to function independently in case of overload or mechanical failure. The lowest inlet shall have a minimum clearance of 2 inches (51 mm) from the high water or starting level of the sump.

(Code 1994, § 16.28.150; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-321. Table 906.1 amended; size and developed length of stack vents and vent stacks.

Table 906.1 of the plumbing code shall be amended to read as follows:

Table 906.1

Maximum Unit Loading and Maximum Length of Drainage and Vent Piping

Size of Pipe, inches (mm)	1¼ (32)	1½ (40)	2 (50)	2½ (65)	3 (80)	4 (100)	5 (125)	6 (150)	8 (200)	10 (250)	12 (300)
Maximum Units											
Drainage piping [1]											
Vertical	1	2 [2]	16 [3]	32 [3]	48 [4]	256	600	1,380	3,600	5,600	8,400
Horizontal	1	1	8 [3]	14 [3]	35 [4]	216 [5]	428 [5]	720 [5]	2,640 [5]	4,680 [5]	8,200 [5]
Maximum Length											
Drainage piping											
Vertical, feet	45	65	85	148	212	300	390	510	750	—	—
(m)	(14)	(20)	(26)	(45)	(65)	(91)	(119)	(155)	(228)	—	—
Horizontal (unlimited)											
Vent piping (See note)											
Horizontal and vertical											
Maximum units	1	8 [3]	24	48	84	256	600	1,380	3,600	—	—
Maximum lengths, feet	45	60	120	180	212	300	390	510	750	—	—
(m)	(14)	(18)	(37)	(55)	(65)	(91)	(119)	(155)	(228)	—	—

[1] Excluding trap arm.

[2] Except sinks, urinals and dishwashers.

[3] Except 6-unit traps or water closets.

[4] Only 4 water closets or 6-unit traps allowed on any vertical pipe or stack; and not to exceed 3 water closets or 6-unit traps on any horizontal branch or drain.

[5] Based on one-quarter inch per foot (20.9 mm/m) slope. For 1/8 inch per foot (10.4 mm/m) slope, multiply horizontal fixture units by a factor of 0.8.

Note: The diameter of an individual vent shall not be less than 1 1/4 inches (31.8 mm) nor less than one-half the diameter of the drain to which it is connected. Fixture unit load values for drainage and vent piping shall be computed from Table P3004.1. Not to exceed 1/3 of the total permitted length of any vent may be installed in a horizontal position. When vents are increased 1 pipe size for their entire length, the maximum length limitations specified in this table do not apply.

(Code 1994, § 16.28.160; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-322. Table 909.1 amended; maximum distance of fixture trap from vent.

Table 909.1 of the plumbing code shall be amended as follows:

Table 909.1

Maximum Distance of Fixture Trap From Vent *

Trap Arm	*Distance Trap to Vent*		*Trap Arm*	*Distance Trap to Vent*
Inches	Feet	Inches	mm	mm
1¼	2	6	32	762
1½	3	6	38	1,067
2	5	0	51	1,524
3	6	0	76	1,829
4 and larger	10	0	102 and larger	3,048

Slope = 1/4 inch per foot (20.9 mm/m)

*The developed length between the trap of a water closet or similar fixture (measured from the top of the closet ring [closet flange] to the inner edge of the vent) and its vent shall not exceed 6 feet.

(Code 1994, § 16.28.170; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-323. Section 914.1 amended; circuit vent permitted.

Sec. 914.1 of the plumbing code shall be amended to read as follows:

914.1 Circuit vent permitted. When approved by the authority having jurisdiction, a maximum of eight fixtures connected to a horizontal branch drain shall be permitted to be circuit vented. Each fixture drain shall connect horizontally to the horizontal branch being circuit vented. The horizontal branch drain shall be classified as a vent from the most downstream fixture drain connection to the most upstream fixture drain connection to the horizontal branch.

(Code 1994, § 16.28.180; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-324. Section 915.4 added; grease introduction.

Sec. 915.4 of the plumbing code shall be added to read as follows:

915.4 Grease introduction. No water closet, urinal or any fixture where grease may be introduced shall dump into a combination waste and vent system.

(Code 1994, § 16.28.190; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-325. Section 918.3 amended; where permitted.

Sec. 918.3 of the plumbing code shall be amended to read as follows:

918.3 Where permitted. Individual, branch and circuit vents serving a sink under a bearing wall, island sink installation, basement bar sink installation or locations approved by the building official shall be permitted to terminate with a connection to an air admittance valve. The air admittance valve shall only vent fixtures that are on the same floor level and connect to a horizontal branch drain. The horizontal branch drain shall conform to section 918.3.1 or section 918.3.2.

(Code 1994, § 16.28.200; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-326. Section 1003.3.4.1 amended; grease interceptor capacity.

Sec. 1003.3.4.1 of the plumbing code shall be amended to read as follows:

1003.3.4.1 Grease interceptor capacity. Grease interceptors shall be sized as per Table 1003.3.4.1.

Table 1003.3.4.1. Grease Interceptor Sizing

Number of meals per peak hour	X	Waste flow rate	X	Retention time	X	Storage factor	=	Interceptor size (liquid capacity)

a. Meals served at peak hour.

b. Waste flow rate.

1. With dishwashing machine: 6-gallon (22.7L) flow.
2. Without dishwashing machine: 5-gallon (18.9L) flow.
3. Single service kitchen: 2-gallon (7.6L) flow.
4. Food waste dispenser: 1-gallon (3.8L) flow.

c. Retention time.

1. Commercial kitchen waste.
2. Dishwasher: 2.5 hours.
3. Single service kitchen.
4. Single serving: 1.5 hours.

d. Storage factors. Fully equipped commercial kitchen:

1. 8-hour operation: 1.
2. 16-hour operation: 2.
3. 24-hour operation: 3.
4. Single service kitchen: 1.5.

(Code 1994, § 16.28.210; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-327. Section 1103.1 amended; main trap.

Sec. 1103.1 of the plumbing code shall be amended to read as follows:

1103.1 Main trap. Leaders and storm drains shall not be connected to the sanitary sewer system.

(Code 1994, § 16.28.220; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-328. Section 1113.1.2 amended; sump pit.

Sec. 1113.1.2 of the plumbing code shall be amended to read as follows:

1113.1.2 Sump pit. Where it is not possible to convey the drainage by gravity, subsoil drains shall discharge to an accessible sump pit. A sump pit shall be at least 18 inches (457 mm) in diameter, 24 inches (610 mm) in depth, and provided with a fitted cover including rough-in discharge piping and 110v GFI electrical power supply. The sump pump, if provided, shall have an adequate capacity to discharge all water coming into the sump as it accumulates to the required discharge point, and the capacity of the pump shall not be less than 15 gpm (1.0 L/s).

The discharge piping for the sump pump shall include the following:

1. Be 1 1/2" (one and one-half) inches in diameter;
2. Terminate within 5' (five feet) horizontally of the sump pit;
3. Extend a minimum of 12" (twelve inches) of this section the floor joists above;
4. Terminate at the exterior of the structure with a removable cap.

(Code 1994, § 16.28.230; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-329. Section 1113.1.3 amended; electrical.

Sec. 1113.1.3 of the plumbing code is amended to read as follows:

1113.1.3 Electrical. A 125-volt, 15-ampere, GFCI-protected, electrical receptacle outlet shall be installed within five feet of the sump pit location. The branch circuit feeding this outlet shall be a dedicated circuit.

(Code 1994, § 16.28.240; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Secs. 22-330--22-346. Reserved.

CHAPTER 10. FUEL GAS CODE

~~**Editor's note**— Ord. 47, 2016 , §§1(Exh. A) and 2(Exh. B), adopted Dec. 20, 2016, repealed Ch. 16.30, §§ 16.30.010—16.30.110, and reenacted a new Ch. 16.30 as set out herein. The former Ch. 16.30 pertained to similar subject matter and derived from Ord. 34, 2012 §§1, 8.~~

Sec. 22-347. International Fuel Gas Code adopted.

The International Fuel Gas Code, 2018 edition, is hereby adopted by reference for the city, except as amended in this chapter, and is hereinafter referred to as the "fuel gas code." The fuel gas code is published by the International Code Council, Inc., 5360 Workman Mill Road, Whittier, CA 90601-2298. The fuel gas code shall apply to the installation of fuel-gas piping systems, fuel-gas utilization equipment and related accessories.

(Code 1994, § 16.30.010; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. G, § 16.30.010, 9-3-2019)

Sec. 22-348. Additions, deletions and amendments to fuel gas code designated.

Sections 106.6.3, 108.4, 108.5, 109, 401.9, 401.10, 404.9, 404.12, 406.4.1, 406.4.2, and 621 of the fuel gas code are hereby enacted as amended, added, or deleted to read as set out in sections 22-349 through 22-359.

(Code 1994, § 16.30.020; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. G, § 16.30.020, 9-3-2019)

Sec. 22-349. Section 106.6.3 amended; fee refunds.

Sec. 106.6.3 of the fuel gas code is amended to read as follows:

106.6.3 Fee refunds. The code official shall authorize the refunding of fees as follows:

a. The full amount of any fee paid hereunder that was erroneously paid or collected.

b. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

c. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid more than 180 days from the date of fee payment.

(Code 1994, § 16.30.030; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-350. Section 108.4 amended; violation penalties.

Sec. 108.4 of the fuel gas code is amended to read as follows:

108.4 Violation penalties. Persons who shall violate a provision of this code, fail to comply with any of the requirements thereof or erect, install, alter or repair work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be ~~guilty of a misdemeanor,~~ punishable ~~as per~~ pursuant to chapter 10 of title 1 of this Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Code 1994, § 16.30.040; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-351. Section 108.5 amended; stop-work orders.

Sec. 108.5 of the fuel gas code is amended to read as follows:

108.5 Stop-work orders. Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

(Code 1994, § 16.30.050; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-352. Section 109 amended; means of appeal.

Sec. 109 of the fuel gas code shall be as described in sections 22-40 and 22-41.

(Code 1994, § 16.30.060; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-353. Section 401.9 deleted; identification.

Sec. 401.9 of the fuel gas code is deleted in its entirety.

(Code 1994, § 16.30.065; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-354. Section 401.10 deleted; third party testing and certification.

Sec. 401.10 of the fuel gas code is deleted in its entirety.

(Code 1994, § 16.30.066; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-355. Section 404.9 amended; aboveground outdoor piping.

Sec. 404.9 of the fuel gas code is amended to read as follows:

404.9 Aboveground outdoor piping. All piping installed outdoors shall be elevated not less than 6 inches (152 mm) of this section ground and where installed across roof surfaces, shall be elevated not less than 6 inches (152 mm) of this section the roof surface. Piping installed above ground, outdoors, and installed across the surface of roofs shall be securely supported and located where it will be protected from physical damage. Where passing through an outside wall, the piping shall also be protected against corrosion by coating or wrapping with an inert material. Where piping is encased in a protective pipe sleeve, the annular space between the piping and the sleeve shall be sealed.

(Code 1994, § 16.30.070; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-356. Section 404.12 amended; minimum burial depth.

Sec. 404.12 of the fuel gas code is amended to read as follows:

404.12 Minimum burial depth. Metallic underground piping systems shall be installed a minimum depth of 18 inches (458 mm) of this section grade and plastic piping systems shall be 24 inches (710 mm), except as provided for in section 404.9.1.

(Code 1994, § 16.30.080; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-357. Section 406.4.1 amended; test pressure.

Sec. 406.4.1 of the fuel gas code is amended to read as follows:

406.4.1 Test pressure. The test pressure to be used shall be no less than 1 1/2 times the proposed maximum working pressure, but not less than 10 psig (20 kPa gauge) for a minimum of 15 minutes, irrespective of design pressure. For medium pressure gas and welded gas lines, the minimum test pressure shall be 60 psig for a minimum of 30 minutes. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe.

(Code 1994, § 16.30.090; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-358. Section 406.4.2 deleted; test duration.

Sec. 406.4.2 of the fuel gas code is deleted in its entirety.

(Code 1994, § 16.30.100; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-359. Section 621 deleted; unvented room heaters.

Sec. 621 of the fuel gas code shall be deleted in its entirety.

(Code 1994, § 16.30.110; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Secs. 22-360--22-376. Reserved.

CHAPTER 11. ELECTRICAL CODE

~~**Editor's note**— Ord. No. 13,2015 , §§ 1(Exh. A), 2, adopted June 2, 2015, repealed the former chapter 16.32, §§ 16.32.010 — 16.32.350, and enacted a new chapter 16.32 as set out herein. The former chapter 16.32 pertained to similar subject matter and derived from Ord. 43, 2011 §1; Ord. 19, 2011 §§1, 2.~~

~~**Article I. - Electrical Code**~~

~~**Article II. - Administration and Enforcement**~~

ARTICLE I. ~~ELECTRICAL CODE~~ GENERALLY

Sec. 22-377. National Electrical Code adopted.

The, National Electrical Code©, 2017 Edition, referred to in this chapter as this Code or the NEC©, is hereby adopted by reference by the city of Greeley. The National Electrical Code© is published by the National Fire Protection Association, One Batterymarch Park, Quincy, Massachusetts, 02269 and is referenced as NFPA 70. The city finds that The National Electrical Code© provides for the minimum standards to safeguard life, health, property and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation and maintenance of electrical systems. To ensure the safety of the public, this code is to be enforced as published or as amended in this chapter. Enforcement and administrative procedures are also established in this chapter.

(Code 1994, § 16.32.010; Ord. No. 13, 2015, § 2, 6-2-2015; Ord. No. 27, 2017, § 1(exh. A), 7-18-2017)

Sec. 22-378. Amendments, deletions, and additions designated.

NEC© articles 90.8(A), 110.14(A), 110.14(B), 210.11(C)(3), 210.52(G), 230.70(A)(1), 250.118, 334.10, 342.10(B), 344.10(B), 348.60, 350.60, 408.4, 422.12 and 690.47(B) of the National Electrical Code© are hereby amended; Annex H of the NEC© is hereby deleted; and articles 210.52(J), 210.52(K), and 210.52(L) are added as set out in sections 16.32.080 through 16.32.091.

(Code 1994, § 16.32.020; Ord. No. 13, 2015, § 2, 6-2-2015; Ord. No. 27, 2017, § 1(exh. A), 7-18-2017)

Sec. 22-379. Article 90.8(A) amended; future expansion and convenience.

Article 90.8(A) of the NEC©, adopted at section 22-377, is amended to read as follows:

90.8 Wiring planning.

a. Future expansion and convenience. Plans and specifications that provide ample space in raceways, spare raceways, and additional spaces allow for future increases in electric power and communication circuits. Distribution centers located in readily accessible locations provide convenience and safety of operation.

b. Provisions shall be provided in the initial electrical installations to allow for future additional loads, feeders and branch circuits. A minimum of three, full size breaker spaces shall be provided in each panelboard at the time of final inspection. In addition, a minimum of a one inch spare conduit or adequate pull wire provision shall be provided from each flush mounted panelboard into the attic space and also into the basement or crawl space for future use.

c. Number of circuits in enclosures. It is elsewhere provided in this Code that the number of wires and circuits confined in a single enclosure be varyingly restricted. Limiting the number of circuits in a single enclosure minimizes the effects from a short circuit or ground fault.

(Code 1994, § 16.32.030; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-380. Article 110.14(A), amended; terminals.

Article 110.14(A) of the NEC©, adopted at section 22-377, is amended to read as follows:

110.14(A) Terminals. Connection of conductors to terminal parts shall ensure a thoroughly good connection without damaging the conductors and shall be made by means of pressure connectors (including set-screw type), solder lugs, or splices to flexible leads. A listed oxide inhibitor compound shall be applied to all aluminum conductor terminations per the manufacturer's installation instructions prior to terminating or landing a conductor to a lug or terminal. Connection by means of wire-binding screws or studs and nuts that have upturned lugs or the equivalent shall be permitted for 10 AWG or smaller conductors.

Terminals for more than one conductor and terminals used to connect aluminum shall be so identified.

(Code 1994, § 16.32.040; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-381. Article 110.14(B), amended; splices.

Article 110.14(B) of the NEC©, adopted at section 22-377, is amended to read as follows:

110.14(B) Splices. Conductors shall be spliced or joined with splicing devices identified for the use or by brazing, welding, or soldering with a fusible metal or alloy. Soldered splices shall first be spliced or joined so as to be mechanically and electrically secure without solder and then be soldered. A listed oxide inhibitor compound shall be applied to all aluminum conductor splices per the manufacturer's installation instructions prior to splicing aluminum conductors with wing nuts, split bolts, or other approved devices. All splices and joints and the free ends of conductors shall be covered with an insulation equivalent to that of the conductors or with an identified insulation device.

Wire connectors or splicing means installed on conductors for direct burial shall be listed for such use.

(Code 1994, § 16.32.050; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-382. Article 210.11(C)(3) amended; bathroom branch circuits.

Article 210.11(C)(3) of the NEC©, adopted at section 22-377, is amended to read as follows:

210.11(C)(3) Bathroom Branch Circuits. In addition to the number of branch circuits required by other parts of this section, at least one 120-volt, 20-ampere branch circuit shall be provided to supply bathroom receptacle outlet. Such circuits shall have no other outlets.

Exception: Where the 20-ampere circuit supplies a single bathroom, outlets for other equipment within the same bathroom shall be permitted to be supplied in accordance with 210.23(A)(1) and (A)(2). A minimum of one lighting outlet (not required by this Code to be GFCI protected) shall be connected so as not to be protected by the GFCI personnel protection.

(Code 1994, § 16.32.060; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-383. Article 210.52(G) amended; basements, garages, and accessory buildings.

Article 210.52(G) of the NEC©, adopted at section 22-377, is amended to read as follows:

210.52(G) Basements, garages, and accessory buildings. For a one-family dwelling, at least one receptacle outlet shall be installed, in the areas specified in 210.52(G)(1) through (3). These receptacles shall be in addition to receptacles required for specific equipment.

a. Garages. In each attached garage, and in each detached garage with electric power. The receptacle outlet shall be at least 450 mm (18 inches) of this section and no more than 1.7 [meters] (5 1/2 feet) of this section the garage floor. All openings for receptacles, luminaires, heating, refrigeration, and motor loads shall be a minimum of 450 mm (18 inches) of this section the floor. At least one receptacle outlet shall be installed for each vehicle bay.

b. Accessory buildings. In each accessory building with electric power.

c. Basements. In each separate unfinished portion of a basement, or where a portion of the basement is finished into one or more habitable rooms, each separate unfinished portion, in addition to those for specific equipment.

1. In new construction and remodels, if all or any part of the walls of an unfinished basement are framed, the electrical receptacle outlets as required by NEC© 210.52, and switch and luminaire outlets as required by NEC© 210.70 shall be installed.
2. If the walls, floors and ceilings will not be finished, the outlet devices are not required to be installed, however, the outlet boxes shall have blank cover plates installed on them prior to final inspection approval.
3. If receptacle outlets are installed, they shall have GFCI protection for personnel, if floor covering is not installed at the time of final inspection.

(Code 1994, § 16.32.070; Ord. No. 13, 2015, § 2, 6-2-2015; Ord. No. 27, 2017, § 1(exh. A), 7-18-2017)

Sec. 22-384. Article 210.52(J) added; sump pit receptacle outlet.

Article 210.52(J) of the NEC©, adopted at section 22-377, is added to read as follows:

210.52 (J) Sump pit receptacle outlets. A 125-volt, single-phase, 15- or 20-ampere receptacle outlet shall be installed adjacent to and within 18" of the sump pit ~~as required by 16.28.460~~. This receptacle outlet shall be on a dedicated branch circuit and shall be GFCI protected.

(Code 1994, § 16.32.090; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-385. Article 210.52(L) Added; igniters for gas-fired appliances.

Article 210.52(L) of the NEC©, adopted at section 22-377, is added to read as follows:

210.52(L) Igniters for gas-fired appliances. The branch circuit supplying power to an outlet for a gas-fired appliance with an igniter shall not be GFCI protected.

(Code 1994, § 16.32.091; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-386. Article 230.70(A)(1) amended; readily accessible location.

Article 230.70(A)(1) of the NEC©, adopted at section 22-377, is amended to read as follows:

230.70(A)(1) Readily accessible location. The service disconnecting means shall be installed at a readily accessible location either outside of a building or structure or inside nearest the point of entrance of the service conductors.

For a one-family dwelling, the service disconnecting means shall be located on the exterior of the structure adjacent to or combined with the utility meter enclosure.

(Code 1994, § 16.32.100; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-387. Article 250.118 amended; types of equipment grounding conductors.

Article 250.118 of the NEC©, adopted at section 22-377, is amended to read as follows:

250.118 Types of equipment grounding conductors. The equipment grounding conductor run with or enclosing the circuit conductors shall be one or more or a combination of the following:

a. A copper, aluminum, or copper-clad aluminum conductor. This conductor shall be solid or stranded; insulated, covered, or bare; and in the form of a wire or a busbar of any shape.
b. Rigid metal conduit.
c. Intermediate metal conduit.
d. Electrical metallic tubing.
e. Deleted in its entirety. See section 22-391.
f. Deleted in its entirety. See section 22-392.
g. Flexible metallic tubing where the tubing is terminated in fittings listed for grounding and meeting the following conditions:
    1. The circuit conductors contained in the tubing are protected by overcurrent devices rated at

20 amperes or less.

2. The combined length of flexible metal tubing in the same ground return path does not exceed 1.8 m (6 feet).

h. Armor of Type AC cable as provided in 320.108.

i. The copper sheath of mineral-insulated, metal/sheathed cable.

j. Type MC cable where listed and identified for grounding in accordance with the following:

1. The combined metallic sheath and grounding conductor of interlocked metal tape-type MC cable.

2. The metallic sheath or the combined metallic sheath and grounding conductors of the smooth or corrugated tube-type MC.

k. Cable trays as permitted in 392.3(C) and 392.7.

l. Cable bus framework as permitted in 370.3.

m. Other listed electrically continuous metal raceways and listed auxiliary gutters.

n. Surface metal raceways listed for grounding.

(Code 1994, § 16.32.110; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-388. Article 334.10 amended; used permitted.

Article 334.10 of the NEC©, adopted at section 22-377, is amended to read as follows:

334.10 Used permitted Type NM, Type NMC and Type NMS cables shall be permitted to be used in the following:

a. One- and two-family dwellings and their attached or detached garages, and their storage buildings.

b. Multifamily dwellings permitted to be of Types III, IV, and V construction up to three stories in height only and their accessory structures, except as prohibited in 334.12.

c. Deleted in its entirety.

d. Cable trays in structures permitted to be Types III, IV, and V where the cables are identified for the use.

(Code 1994, § 16.32.120; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-389. Article 342.10(B), amended; corrosive environments.

Article 342.10(B) of the NEC©, adopted at section 22-377, is amended to read as follows:

342.10(B) Corrosive environments. IMC, elbows, couplings, and fittings shall be provided with approved supplementary corrosion protection where incased in concrete or in direct contact with the earth.

(Code 1994, § 16.32.130; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-390. Article 344.10(B), amended; corrosion environments.

Article 344.10(B) of the NEC©, adopted at section 22-377, is amended to read as follows:

344.10(B) Corrosive environments.

a. Stainless Steel and Red Brass RMC, Elbows, Couplings, and Fittings. Galvanized steel, Stainless steel and red brass RMC elbows, couplings, and fittings shall be permitted to be installed in concrete, in direct contact with the earth, or in areas subject to severe corrosive influences where protected by corrosion protection and judged suitable for the condition.

b. Supplementary Protection of Aluminum RMC. Aluminum RMC shall be provided with approved supplementary corrosion protection where encased in concrete or in direct contact with the earth.

(Code 1994, § 16.32.140; Ord. No. 13, 2015, § 2, 6-2-2015; Ord. No. 27, 2017, § 1(exh. A), 7-18-2017)

Sec. 22-391. Article 348.60, amended; grounding and bonding.

Article 348.60 of the NEC©, adopted at section 22-377, is amended to read as follows:

348.60 Grounding and bonding. Flexible metallic conduit shall not be permitted to be used as an equipment grounding conductor.

An equipment grounding conductor shall be installed in all flexible metallic conduits and shall be installed in accordance with 250.134(B).

Equipment bonding jumpers shall be installed in accordance with 250.102.

(Code 1994, § 16.32.150; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-392. Article 350.60, amended; grounding and bonding.

Article 350.60 of the NEC©, adopted at section 22-377, is amended to read as follows:

350.60 Grounding and bonding. Liquid-tight flexible metallic conduit shall not be permitted to be used as an equipment grounding conductor.

An equipment grounding conductor shall be installed in all liquid-tight flexible metallic conduits and shall be installed in accordance with 250.134(B).

Equipment bonding jumpers shall be installed in accordance with 250.102.

FPN: See 501.30(B), 502.30(B), and 503.30(B) for types of equipment grounding conductors.

(Code 1994, § 16.32.160; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-393. Article 408.4, amended; circuit directory or circuit identification.

Article 408.4 of the NEC©, adopted at section 22-377, is amended to read as follows:

408.4 Circuit directory or circuit identification. Every circuit and circuit modification shall be legibly identified by typewritten, computer generated, or mechanically produced form as to its clear, evident, and specific purpose or use on all electrical equipment in all occupancies except residential construction. In other than new construction, and when approved by the AHJ, the identification may be legibly handwritten. The identification shall include an approved degree of detail that allows each circuit to be distinguished from all others. Spare positions that contain unused overcurrent devices or switches shall be described accordingly. The identification shall be included in a circuit directory that is located on the face or inside of the panel door in the case of a panelboard and located at each switch or circuit breaker in a switchboard. No circuit shall be described in a manner that depends on transient conditions of occupancy.

(Code 1994, § 16.32.165; Ord. No. 13, 2015, § 2, 6-2-2015; Ord. No. 27, 2017, § 1(exh. A), 7-18-2017)

Sec. 22-394. Article 422.12, amended; central heating equipment.

Article 422.12 of the NEC©, adopted at section 22-377, is amended to read as follows:

422.12 Central heating equipment. Central heating equipment other than fixed electric space-heating equipment shall be supplied by an individual branch circuit.

A combination switch/fuse holder unit such as a SSU or SSY shall be installed as the discounting means for central heating equipment such as gas, forced-air furnaces and unit heaters. The fuse shall be sized at 125 percent of the nameplate rating of the heating equipment.

Exception No. 1: Auxiliary equipment such as a pump, valve, humidifier, or electrostatic air cleaner directly associated with the heating equipment, shall be permitted to be connected to the same branch circuit.

Exception No. 2: Permanently connected air-conditioning equipment shall be permitted to be connected to the same branch circuit.

Exception No. 3: A door chime transformer shall be permitted to be connected to the same branch circuit.

(Code 1994, § 16.32.170; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-395. Article 690.47(B), amended; additional auxiliary electrodes for array grounding.

Article 690.47(B) of the NEC©, adopted at section 22-377, is amended to read as follows:

(1) Additional auxiliary electrodes for array grounding. A grounding electrode shall be installed in accordance with 250.52 and 250.54 at the location of all ground- and pole-mounted PV arrays and as close as practicable to the location of roof-mounted PV arrays. The electrodes shall be connected directly to the array frame or structure. The dc grounding electrode conductor shall be sized according to 250.166. Additional electrodes are not permitted to be used as a substitute for equipment bonding or equipment grounding conductor requirements. The structure of a ground- or pole-mounted PV array shall be permitted to be considered a grounding electrode if it meets the requirements of 250.52. Roof-mounted PV arrays shall be permitted to use the metal frame of a building or structure if the requirements of 250.52(A)(2) are met.

Exception: An additional array grounding electrode shall not be required if located within 1.8 m (6 ft) of the premises wiring electrode.

(Code 1994, § 16.32.180; Ord. No. 27, 2017, § 1(exh. A), 7-18-2017)

Secs. 22-396--22-418. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 22-419. Scope.

The following functions are covered:

(1) The inspection of electrical installations as covered by NEC© article 90.2.

(2) The investigation of fires caused by electrical installations.

(3) The review of construction plans, drawings, and specifications for electrical systems.

(4) The review of design, alteration, modification, construction, maintenance, and testing of electrical systems and equipment.

(5) The regulation and control of electrical installations at special events within the city limits of Greeley and the Island Grove Regional Park, including, but not limited to, the Greeley Independence Stampede, the Farm Show, the Arts Picnic, Cinco De Mayo, the Weld County Fair and other exhibits, trade shows, amusement parks, carnivals, circuses, and other similar special occupancies.

(6) Enforcement of violations of this chapter.

(Code 1994, § 16.32.190; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-420. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apprentice means a person who is working at the trade in the employment of a registered electrical contractor and is under the direct supervision of a licensed master electrician, journeyman electrician, or residential wireman.

Authority having jurisdiction means the individual responsible for approving equipment, materials, an installation, or a procedure.

Chief electrical inspector means an electrical inspector who is designated the authority having jurisdiction responsible for administering the requirements of this Code.

Electrical contractor means any person, firm, co-partnership, corporation, association, or combination thereof who undertakes or offers to undertake for another the planning, laying out, supervising, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric light, heat, and power. A registered professional engineer who plans or designs electrical installations shall not be classified as an electrical contractor.

Electrical inspector means an individual meeting requirements of 22-427 and authorized to perform electrical

inspections.

Electrical work means wiring for, installing, and repairing electrical apparatus and equipment for light, heat, and power and other electrical purposes.

Journeyman electrician means a person having the necessary qualifications, training, experience, and technical knowledge to wire for, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes, in accordance with standard rules and regulations governing such work, such as the National Electrical Code©, and who holds an active journeyman electrician license issued by the state electrical board.

Master electrician means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation and repair of wiring apparatus and equipment for electric light, heat, power, and other purposes in accordance with standard rules and regulations governing such work, such as the National Electrical Code©, and who holds an active master electrician license issued by the state electrical board.

Residential wireman means a person having the necessary qualifications, training, experience, and technical knowledge to wire for, and install, electrical apparatus and equipment for wiring one-, two-, three-, and four-family dwellings, and who holds an active residential wireman license issued by the state electrical board.

(Code 1994, § 16.32.200; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-421. Application.

(a) *New installations.* This code applies to new installations. Buildings with construction permits issued after the date of adoption of this code by the state electrical board and/or the city shall comply with its requirements.

(b) *Existing installations.* Existing electrical installations that do not comply with the provisions of this code shall be permitted to be continued in use unless the authority having jurisdiction determines that the lack of conformity with this code presents an imminent danger to occupants. Where changes are required for correction of hazards, a reasonable amount of time, as determined by the authority having jurisdiction, shall be given for compliance, depending on the degree of hazard.

Life safety systems such as exit lighting systems, emergency egress lighting systems, ground fault circuit interrupter devices for personal protection, and smoke detectors may be required to be brought into compliance with current code requirements as determined by the authority having jurisdiction.

(c) *Additions, alterations, or repairs.* Additions, alterations, or repairs to any building, structure, or premises shall conform to that required of a new building without requiring the existing building to comply with all the requirements of this code. Additions, alterations, installations, or repairs shall not cause an existing building to become unsafe or to adversely affect the performance of the building as determined by the authority having jurisdiction. Electrical wiring added to an existing service, feeder, or branch circuit shall not result in an installation that violates the provisions of the code in force at the time the additions are made.

(d) *Change of use.* When any building, structure, or premises is occupied for a purpose that results in a change of use as determined by the chief building official, then the existing electrical service, distribution system, and branch circuit wiring for light, heat, power, and other purposes shall be inspected by the authority having jurisdiction to ensure that the existing electrical wiring is in compliance with the NEC© requirements for the new type of use. Any parts of the electrical systems found to be in violation shall be brought into compliance before the building can be occupied for the new use.

(e) *Relocated structures.* The entire electrical service, distribution system, and branch circuit wiring for light, heat, power, and other purposes shall be installed to meet the requirements of a new installation whenever an existing structure is relocated within the city limits. All existing wiring systems, enclosures, panelboards, circuit breakers, fuses, luminaries and devices shall be removed in their entirety and not reused unless approved by the authority having jurisdiction prior to obtaining an electrical permit to rewire the structure.

(f) *Mobile and manufactured homes.* Every mobile home, manufactured home, or movable structure shall have the electrical utility service or hookup inspected prior to obtaining new or different service to the unit. This inspection shall be requested when the mobile home, manufactured home or movable structure has passed all other inspections required for the applicable type of structure.

(Code 1994, § 16.32.210; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-422. Authority.

Where used in this chapter, the term "authority having jurisdiction" includes the chief electrical inspector or other individuals designated by the chief building official. This code shall be administered and enforced by the authority having jurisdiction as follows:

(1) The authority having jurisdiction shall be permitted to render interpretations of this code in order to provide clarification to its requirements as permitted by NEC© article 90.4.

(2) When the use of any electrical equipment or its installations is found to be dangerous to human life or property, the authority having jurisdiction shall be empowered to have the premises disconnected from its source of electric supply. When such equipment or installation has been so condemned or disconnected, a notice shall be placed thereon listing the causes for the condemnation, the disconnection, or both and the penalty under 22-424 for the unlawful use thereof. Written notice of such condemnation or disconnection and the causes therefore shall be given within 24 hours to the owners, the occupant, or both, of such building, structure, or premises. It shall be unlawful for any person to remove said notice, to reconnect the electric equipment to its source of electric supply, or to use or permit to be used electric power in any such electric equipment until such causes for the condemnation or disconnection have been remedied to the satisfaction of the authority having jurisdiction.

(3) The authority having jurisdiction shall be permitted to delegate to other qualified individual such powers as necessary for the proper administration and enforcement of this code.

(4) Police, fire, and other enforcement agencies shall have authority to render necessary assistance in the enforcement of this code when requested to do so by the authority having jurisdiction.

(5) The authority having jurisdiction shall be authorized to inspect, at all reasonable times, any building or premises for dangerous or hazardous conditions or equipment as set forth in this code. The authority having jurisdiction shall be permitted to order any person to remove or remedy such dangerous or hazardous condition or equipment. Any person failing to comply with such order shall be in violation of this code.

(6) Where the authority having jurisdiction deems that conditions hazardous to life and property exist, he shall be permitted to require that such hazardous conditions in violation of this code be corrected.

(7) To the full extent permitted by law, any authority having jurisdiction engaged in inspection work shall be authorized at all reasonable times to enter and examine any building, structure, or premises for the purpose of making electrical inspections. Before entering a premises, the authority having jurisdiction shall obtain the consent of the occupant thereof or obtain a court warrant authorizing entry for the purpose of inspection except in those instances where an emergency exists. As used in this section, emergency means circumstances that the authority having jurisdiction knows, or has reason to believe, exist and that reasonably can constitute immediate danger to persons or property.

(8) Persons authorized to enter and inspect buildings, structures, and premises as herein set forth shall be identified by proper credentials issued by the city.

(9) Persons shall not interfere with an authority having jurisdiction carrying out any duties or functions prescribed by this code.

(10) Persons shall not use a badge, uniform, or other credentials to impersonate the authority having jurisdiction.

(11) The authority having jurisdiction shall be permitted to investigate the cause, origin, and circumstances of any fire, explosion, or other hazardous condition.

(12) The authority having jurisdiction shall be permitted to require plans and specifications to ensure compliance with this code.

(13) Whenever any installation subject to inspection prior to use is covered or concealed without having first been inspected, the authority having jurisdiction shall be permitted to require that such work be exposed

for inspection. The authority having jurisdiction shall be notified when the installation is ready for inspection and shall conduct the inspection within two workdays.

(14) The authority having jurisdiction shall be permitted to order the immediate evacuation of any occupied building deemed unsafe when such building has hazardous conditions that present imminent danger to building occupants.

(15) The authority having jurisdiction shall be permitted to waive specific requirements in this code or permit alternative methods where it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety. Technical documentation shall be submitted to the authority having jurisdiction to demonstrate equivalency and that the system, method, or device is approved for the intended purpose.

(16) Each application for a waiver of a specific electrical requirement shall be filed with the authority having jurisdiction and shall be accompanied by such evidence, letters, statements, results of tests, or other supporting information as required to justify the request. The authority having jurisdiction shall keep a record of actions on such applications, and a signed copy of the authority having jurisdiction's decision shall be provided for the applicant.

(Code 1994, § 16.32.220; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-423. Construction trades advisory and appeals board.

The construction trades advisory and appeals board shall be as described in sections 22-38 and 22-39.

(1) *General.* As described in section 22-38.

(2) *Limitations on authority.* As described in section 22-39.

(3) *Appeals*.

a. *Review of decisions.* Any person, firm, or corporation may register an appeal with the construction trades advisory and appeals board for a review of any decision of the chief electrical inspector or of any electrical inspector, provided that such appeal is made in writing within 15 calendar days after such person, firm, or corporation shall have been notified. Upon receipt of such appeal, said board shall, if requested by the person making the appeal, hold a public hearing and proceed to determine whether the action of this board, or of the chief electrical inspector, or of the electrical inspector complies with this law and, within 15 calendar days after receipt of the appeal or after holding the hearing, shall make a decision in accordance with its findings.

b. *Conditions.* Any person shall be permitted to appeal a decision of the authority having jurisdiction to the construction trades advisory and appeals board when it is claimed that any one or more of the following conditions exist:

1. The true intent of the codes or ordinances described in this Code has been incorrectly interpreted.

2. The provisions of the codes or ordinances do not fully apply.

3. A decision is unreasonable or arbitrary as it applied to alternatives or new materials.

c. *Submission of appeals.* A written appeal, outlining the code provision from which relief is sought and the remedy proposed, shall be submitted to the authority having jurisdiction within 15 calendar days of notification of violation.

(4) *Meetings and records.* Meetings and records of the board shall conform to the following:

a. Meetings of the board shall be open to the public as required by law.

b. Records of meetings of the board shall be available for review during normal business hours, as required by law.

(Code 1994, § 16.32.230; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-424. Permits and approvals.

Permits and approvals shall conform to subsections (1) through (9) of this section.

(1) *Permits required.* No person, whether or not required to be licensed by the state electrical board as an electrical contractor, master electrician, journeyman electrician or residential wireman, shall install, alter, or repair any electrical wiring, apparatus or equipment unless a permit for such electrical work has been issued. A permit must be obtained for each separate project. Application for permits shall be made on forms provided by the building inspection division and the required permit fee shall accompany each application.

(2) *Homeowner permit.* A person may obtain a permit to personally install electrical work on their own property or residence. The application for a homeowner permit shall include a notarized affidavit stating that the homeowner is knowledgeable of the requirements of the National Electrical Code© and that they will be personally responsible for performing the installation of the electrical work outlined on the permit application.

(3) *Working without permit; penalty.* Any person who commences any electrical work for which a permit is required without first having obtained such permit shall be subject to punishment as provided in chapter 10 of title 1 of this Code and section 22-425 and, in addition, shall be obligated to pay a permit fee equal to twice the regular permit fee. However, the foregoing provision regarding punishment and payment of double fees shall not apply to emergency electrical work when it appears to the satisfaction of the chief electrical inspector that such work was urgently necessary and that it was not practical to obtain a permit before the commencement of the work. The foregoing exculpatory provision shall apply only if the person required to obtain the permit does apply for the permit as soon as practical following the installation of the electrical work.

(4) *Application.*

a. Activity authorized by a permit issued under this code shall be conducted by the permittee or the permittee's agents or employees in compliance with all requirements of this code applicable thereto and in accordance with the approved plans and specifications. No permit issued under this code shall be interpreted to justify a violation of any provision of this code or any other applicable law or regulation. Any addition or alteration of approved plans or specifications shall be approved in advance by the authority having jurisdiction, as evidenced by the issuance of a new or amended permit.

b. A copy of the permit shall be posted or otherwise readily accessible at each work site or carried by the permit holder as specified by the authority having jurisdiction.

(5) *Content.* Permits shall be issued by the authority having jurisdiction and shall contain the following:

a. Operation or activities for which the permit is issued.

b. Address or location where the operation or activity is to be conducted.

c. Name and address of the permittee.

d. Permit number and date of issuance.

e. Name of licensed electrical contractor (if applicable).

f. Inspection requirements.

(6) *Issuance of permits.* The authority having jurisdiction shall be authorized to establish and issue permits, certificates, notices, and approvals, or orders pertaining to electrical safety hazards pursuant to 22-424, except that no permit shall be required to execute any of the classes of electrical work specified in the following:

a. Installation or replacement of equipment such as lamps and of electric utilization equipment approved for connection to suitable permanently installed receptacles. Replacement of flush or snap switches, fuses, circuit breakers, lamp sockets, and receptacles, and other minor maintenance and repair work, such as replacing worn cords and tightening connections on a wiring device.

b. The process of manufacturing, testing, servicing, or repairing electric equipment or apparatus.

c. Installation of equipment and circuits operating at less than 50 volts, unless required by the International Fire Code© for fire alarm systems; however, all work installed under this exception shall meet the applicable requirements of NEC© article 720, article 725, article 760, article 770, article 800, article 810, article 820, and/or article 830 and is subject to inspection by the authority having jurisdiction.

Note: This exception shall not be applicable to NEC© article 411—Lighting Systems Operating at 30 Volts or Less.

(7) *Permit fee schedule.* The permit fee schedule as established in section 22-33 is adopted for all electrical permits issued under the scope of this code.

(8) *Inspection and approvals.*

a. Upon the completion of any installation of electrical equipment that has been made under a permit, it shall be the duty of the person, firm, or corporation making the installation to notify the electrical inspector having jurisdiction, who shall inspect the work within a reasonable time.

b. Where the electrical inspector finds the installation to be in conformity with this code, local ordinances and all rules and regulations of the state electrical board, the inspector shall issue to the person, firm, or corporation making the installation a certificate of approval, authorizing the connection to the supply of electricity and shall send written notice of such authorization to the electric utility company. This connection to the utility company's supply shall be revocable by the electrical inspector for cause.

c. When any portion of the electrical installation within the jurisdiction of an electrical inspector is to be hidden from view by the placement of parts of the building, the person, firm, or corporation installing the electrical equipment or system shall notify the electrical inspector, and such electrical equipment or system shall not be concealed until it has been approved by the electrical inspector or until two work days have elapsed from the time of the notification, provided that on large installations, where the concealment of equipment and systems proceeds continuously, the person, firm, or corporation installing the equipment and systems shall give the electrical inspector due notice in advance, and inspections shall be made periodically during the progress of the work.

d. If, upon inspection, any installation is found not to be fully in conformity with the provisions of this code, and all applicable statutes, ordinances, rules, and regulations, the inspector making the inspection shall at once forward to the person, firm, or corporation making the installation a written notice stating the defects that have been found to exist.

(9) *Revocation of permits.* Revocation of permits shall conform to the following:

a. The authority having jurisdiction shall be permitted to revoke a permit or approval issued if any violation of this code is found upon inspection or in case there have been false statements or misrepresentations submitted in the application or plans on which the permit or approval was based.

b. Any attempt to defraud or otherwise deliberately or knowingly design, install, service, maintain, operate, sell, represent for sale, falsify records, reports, or applications, or other related activity in violation of the requirements prescribed by this code shall be in violation of this code. Such violations shall be cause for immediate suspension or revocation of any related certificates or permits issued by this jurisdiction. In addition, any such violation shall be subject to any other criminal or civil penalties as available by the ordinances of the city and state statutes.

c. Revocation shall be constituted when the permittee is duly notified by the authority having jurisdiction.

d. Any person who engages in any business, operation, or occupation, or uses any premises, after the permit issued therefor has been suspended or revoked pursuant to the provisions of this code, and before such suspended permit has been reinstated or a new permit issued, shall be in violation of this code.

e. A permit shall be predicated upon compliance with the requirement of this code and shall constitute written authority issued by the authority having jurisdiction to install electrical work. Any permit issued under this code shall not take the place of any other license or permit required by other regulations or ordinances of the city.

f. The authority having jurisdiction shall be permitted to require an inspection prior to the issuance of a permit.

g. A permit issued under this code shall continue until revoked or for the period of time designated on the permit. The permit shall be issued to one person or business only and for the location or purpose described in the permit. Any change that affects any of the conditions of the permit shall require a new or amended permit.

(Code 1994, § 16.32.240; Ord. No. 13, 2015, § 2, 6-2-2015; Ord. No. 27, 2017, § 1(exh. A), 7-18-2017)

Sec. 22-425. Notice of violations and penalties.

Notice of violations and penalties shall conform to subsections (1) and (2) of this section.

(1) *Violations.*

a. Whenever the authority having jurisdiction determines that there are violations of this code, a written notice shall be issued to confirm such findings.

b. Any order or notice issued pursuant to this code shall be served upon the owner, operator, occupant, or other person responsible for the condition or violation, either by personal service or mail or be delivering the same to, and leaving it with, some person of responsibility upon the premises. For unattended or abandoned locations, a copy of such order or notice shall be posted on the premises in a conspicuous place at or near the entrance to such premises and the order or notice shall be mailed by registered or certified mail, with return receipt requested, to the last-known address of the owner, occupant, or both.

(2) *Penalties.*

a. Any person who fails to comply with the provisions of this code or who fails to carry out an order made pursuant to this code or violates any condition attached to a permit, approval, or certificate shall be subject to the penalties established by the city as provided in chapter 10 of title 1 of this code, and, if applicable, as limited by subsection (2)c of this section.

b. Failure to comply with the time limits of an abatement notice or other corrective notice issued by the authority having jurisdiction shall result in each day that such violation continues being regarded as a new and separate offense.

c. Any person, firm, or corporation who shall willfully violate any of the applicable provisions of this article shall be guilty of a misdemeanor <u>infraction</u> ~~and punished~~ <u>punishable</u> pursuant to the provisions of chapter 10 of title 1 of this code, including assessing a fine as outlined in the citation fine schedule shown below.

City of Greeley Citation Fine Schedule

Violation	Ordinance or Rule Provision	1st	2nd	3rd
Failure to obtain an electrical permit	22-424	$250.00	$600.00	Discretionary (up to $1,000.00 per day)
Failure to request an electrical inspection	22-424	$250.00	$600.00	Discretionary (up to $1,000.00 per day)
Failure to correct electrical code violations within a reasonable time (30	22-425	$300.00	$500.00	Discretionary (up to $1,000.00 per day)

days)				
Providing false or misleading advertising	22-433	$250.00	$500.00	Discretionary (up to $1,000.00 per day)
Deception, misrepresentation or fraud in obtaining or attempting to obtain an electrical permit	22-424	$1,000.00	$1,000.00	Discretionary (up to $1,000.00 per day)
Any other violation of the city electrical code	chapter 11 of this title	Up to $1,000.00	Up to $1,000.00	Discretionary (up to $1,000.00 per day)

(Code 1994, § 16.32.250; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-426. Connection to electrical supply.

Connection to the electric supply shall conform to subsections (1), (2) and (3) of this section.

(1) *Authorization.* It shall be unlawful for any person, firm, or corporation to make connection to a supply of electricity or to supply electricity to any electric equipment installation for which a permit is required or that has been disconnected or ordered to be disconnected.

(2) *Special consideration.* By special permission of the authority having jurisdiction, temporary power shall be permitted to be supplied to the premises for specific needs of the construction project. The chief electrical inspector shall determine what needs are permitted under this provision.

(3) *Disconnection.* Where a connection is made to an installation that has not been inspected as outlined in the preceding subsections of this section, the supplier of electricity shall immediately report such connection to the chief electrical inspector. If, upon subsequent inspection, it is found that the installation is not in conformity with the provisions of this code, the chief electrical inspector shall notify the person, firm, or corporation making the installation to rectify the defects and, if such work is not completed within 15 calendar days or a longer period as may be specified by the chief electrical inspector, then the chief electrical inspector shall have the authority to cause the disconnection of that portion of the installation that is not in conformity.

(Code 1994, § 16.32.260; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-427. Electrical inspector's qualifications.

(a) *Licensed by the state electrical board.* All electrical inspectors shall be licensed with the state electrical board as a journeyman or master electrician at time of their employment. A journeyman electrician shall obtain their master electrician license within 12 months of employment by the city.

(b) *Approved by the state electrical board.* A person who has been certified as a residential electrical inspector by the International Code Council (ICC), has completed two years of practical experience in the inspection of residential dwellings under the direction of a licensed electrical inspector and has been approved by the state electrical board, may be employed to inspect one-, two-, three-, and four-family residential dwelling units only.

(c) *Certification by ICC.* All electrical inspectors shall obtain their ICC electrical inspector's certification by completing the certification requirements of the International Code Council within 12 months of their employment by the city.

(d) *Re-certification.* Electrical inspectors shall maintain their state electrical license and ICC certifications while employed by the city as an electrical inspector.

(Code 1994, § 16.32.270; Ord. No. 13, 2015, § 2, 6-2-2015; Ord. No. 27, 2017, § 1(exh. A), 7-18-2017)

Sec. 22-428. Liability for damages.

This chapter shall not be construed to relieve from or lessen the responsibility or liability of any party owning, designing, operating, controlling, or installing any electrical wiring or equipment for damages or injury to persons or property caused by a defect therein, nor shall the city or any of its employees be held as assuming any such

liability by reason of the inspection, re-inspection, or other examination authorized by this chapter or otherwise.

(Code 1994, § 16.32.280; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-429. Validity.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

Sec. 22-430. Rules and regulations of the Colorado State Electrical Board supersede conflicting provisions of this chapter.

All sections or parts of sections of this chapter in conflict with the rules and regulations of the state electrical board are hereby subordinate to such rules and regulations; and such rules and regulations supersede and replace any conflicting provisions of this chapter to the extent of the conflict.

(Code 1994, § 16.32.290; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-431. Registration of electrical contractors.

(a) *Registration.* Any person, firm, co-partnership, corporation, association, or combination thereof that applies for an electrical permit or is listed as the electrical contractor on a building, plumbing, or mechanical permit, shall be registered in good standing with the city building inspection division.

(b) *Licenses.* To be in compliance with this registration requirement, the electrical contractor shall provide to the building inspection division a copy of their valid and current electrical contractor's license issued by the state electrical board and a valid and current copy of the master electrician license issued by the state electrical board of the individual who is listed as the master electrician of record for the electrical contractor.

(c) *Registration Fees.* No fee shall be charged to register the electrical contractor or master electrician of record per C.R.S. § 12-115-101 et seq. ~~state statute 12-23-111(15).~~

(d) *Renewal.* This registration shall be renewed within 30 days of the deadline of the re-certification examination required by the state electrical board. If the license of either the electrical contractor or master electrician of record is not renewed, then the city electrical contractor registration will lapse and shall be deemed to have expired. No application for any type of permit will be processed if the registration of an electrical contractor has expired.

(Code 1994, § 16.32.310; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-432. Electrician must have license control and supervision.

(a) No person shall engage in or work at the business, trade, or calling of a journeyman electrician, master electrician, or residential wireman in the state until he has received a license from the division of registrations upon written notice from the state electrical board or the program administrator, acting as the agent thereof, or a temporary permit from the board, the program administrator, or his agent.

(b) No person, firm, co-partnership, association, or combination thereof shall engage in the business of an electrical contractor without having first registered with the state electrical board. The board shall register an electrical contractor upon meeting the requirements for a licensed master electrician being in charge of the supervision of all electrical work performed by the contractor, payment of required fees, and evidence that the applicant has complied with the applicable workman's compensation law and unemployment compensation law of the state.

(c) No holder of a master electrician's license shall be named as the master electrician for more than one contractor and the master electrician of record shall be actively engaged in a full-time capacity with that electrical contracting company.

Note: The city authority having jurisdiction shall be authorized to check for compliance pursuant to this section 22-432 and shall report all violations to the state electrical board for their investigation.

(Code 1994, § 16.32.320; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-433. Unauthorized use of title.

No person, firm, partnership, corporation, or association shall advertise to perform or install electrical wiring in any manner or use the title or designation of licensed electrical contractor, licensed master electrician, licensed journeyman electrician, or licensed residential wireman unless qualified and licensed by the state electrical board.

(Code 1994, § 16.32.330; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-434. Apprentices; supervision; registration; discipline.

(a) Any person may work as an apprentice but shall not do any electrical wiring for the installation of electrical apparatus or equipment for light, heat, or power except under the supervision of a licensed electrician. The degree of supervision required shall be no more than one licensed electrician to supervise no more than three apprentices at the jobsite.

(b) Any electrical contractor, journeyman electrician, master electrician, or residential wireman who is the employer or supervisor of any electrical apprentice working at the trade shall be responsible for the work performed by such apprentice. The state electrical board may take disciplinary action against any such contractor or any such electrician or residential wireman for any improper work performed by an electrical apprentice working at the trade during the time of his employment while under the supervision of such person. The registration of such apprentice may also be subject to disciplinary action by the state electrical board.

(c) Upon employing an electrical apprentice to work at the trade, the electrical contractor, within 30 days after such initial employment, shall register such apprentice with the state electrical board. The employer shall also notify the board within 30 days after the termination of such employment.

(d) Such apprentice shall be under the supervision of either a licensed journeyman electrician, master electrician, or residential wireman at all times while on a jobsite. The degree of supervision required shall be no more than one licensed electrician to supervise no more than three apprentices at the jobsite.

Note: The city authority having jurisdiction shall be authorized to check for compliance pursuant to this section 22-434 and shall report all violations to the state electrical board for their investigation.

(Code 1994, § 16.32.340; Ord. No. 13, 2015, § 2, 6-2-2015)

Sec. 22-435. Exemptions.

(a) Nothing in this chapter shall be construed to require any individual to hold a license before doing electrical work on his own residential property or residence if all such electrical work, except for maintenance, repair, or alteration of existing facilities, is permitted and inspected as provided in this chapter. This exemption shall not be eligible for use again until a period of two years have elapsed past the date of the release of the certificate of occupancy for the property an individual has claimed as their own primary residential property or residence. Further, if such property or residence is intended for sale or resale by that individual subsequent to the issuance of a certificate of occupancy, or is rental property which is occupied or is to be occupied by tenants for lodging, either transient or permanent, or is generally open to the public, the owner shall be responsible for, and the property shall be subject to, all of the provisions of this article pertaining to permits, inspections, and licensing, unless specifically exempted therein.

(b) Nothing in this chapter shall be construed to require any regular employee of any firm or corporation to hold a license before doing any electrical work on the property of such firm or corporation, whether or not such property is owned, leased, or rented: If the firm or corporation employing any employee performing such work has all such electrical work installed in conformity with the minimum standards as set forth in this chapter and all such work is subject to inspection by the city electrical inspectors by request in writing; and if the property of any such firm or corporation is not generally open to the public. Nothing contained in this chapter shall be construed to require any license, any inspection by the city electrical inspectors, or the payment of any fees for any electrical work performed for maintenance, repair, or alteration of existing facilities which shall be exempt as provided in this section.

(c) If the property of any person, firm, or corporation is rental property or is developed for sale, lease, or rental, or is occupied or is to be occupied by tenants for lodging, either transient or permanent, or is generally open to the public, then such property of any such person, firm, or corporation shall be subject to all the provisions of

this article pertaining to permits, inspections and licensing, except for the maintenance, repair, or alteration of existing facilities which shall be exempt as provided in this section.

(d) Nothing in this chapter shall be construed to cover the installation, maintenance, repair, or alteration of vertical transportation or passenger conveyors, elevators, escalators, moving walks, dumbwaiters, stagelifts, man lifts, or appurtenances thereto beyond the terminals of the controllers. Furthermore, elevator contractors or constructors performing any installation, maintenance, repair, or alteration under this exemption, or their employees, shall not be covered by the licensing requirements of this chapter.

(e) Any person who plugs in any electrical appliance where approved electrical outlet is already installed shall not be considered an installer.

(f) No provision of this chapter shall in any manner interfere with, hamper, preclude, or prohibit any vendor of any electrical appliance from selling, delivering, and connecting any electrical appliance, if the connection of said appliance does not necessitate the installation of electrical wiring of the structure where said appliance is connected.

(g) Nothing in this chapter shall be construed to exempt any electrical work from inspection under the provisions of this chapter except that which is specifically exempted in this section 22-435, and nothing in this section 22-435 shall be construed to exempt any electrical work from inspection by the city electrical inspectors or from any required corrections connected therewith.

(h) Nothing in this chapter shall be construed to cover the installation, maintenance, repair, or alteration of security systems, lawn sprinkler systems, environmental controls, or remote radio-controlled systems beyond the terminals of the controllers. Furthermore, the contractors performing any installation, maintenance, repair, or alteration under this exemption, or their employees, shall not be covered by the licensing requirements of this chapter.

(i) Load control devices for air conditioning equipment that are owned, leased, or otherwise under the control of, and are operated by, an electric utility, and are on the load side of the single-family residential meter, if such equipment was installed by qualified employees of the electric utility company.

(j) Nothing in this chapter shall be construed to cover the installation, maintenance, repair, or alteration of electronic computer data processing equipment and systems beyond the terminals of the controllers. Furthermore, the contractors performing any installation, maintenance, repair, or alteration under this exemption, or their employees, shall not be covered by the licensing requirements of this article.

(k) Nothing in this chapter shall be construed to cover the installation, maintenance, repair, or alteration of communications systems, including telephone and telegraph systems, radio and television receiving and transmitting equipment and stations, and antenna systems other than community antenna television systems beyond the terminals of the controllers. Furthermore, the contractors performing any installation, maintenance, repair, or alteration under this exemption, or their employees, shall not be covered by the licensing requirements of this article.

(l) Nothing in this article shall be construed to cover the installation, maintenance, repair, or alteration of cranes, hoists, electroplating, industrial machinery, and irrigation machinery beyond the terminals of the controllers. Furthermore, the contractors performing any installation, maintenance, repair, or alteration under this exemption, or their employees, shall not be covered by the licensing requirements of this chapter.

(m) Nothing in this chapter shall be construed to cover the installation, maintenance, repair, or alteration of equipment and wiring for sound recording and reproduction systems, centralized distribution of sound systems, public address and speech-input systems, or electronic organs beyond the terminals of the controllers. Furthermore, the contractors performing any installation, maintenance, repair, or alteration under this exemption, or their employees, shall not be covered by the licensing requirements of this chapter.

(n) Nothing in this article shall be construed to require either that employees of the federal government who perform electrical work on federal property shall be required to be licensed before doing electrical work on such property or that the electrical work performed on such property shall be regulated pursuant to this chapter.

(o) Nothing in this chapter shall be construed to require licensing that covers the installation, maintenance, repair, or alteration of fire alarm systems operating at 50 volts or less. Furthermore, the contractors performing any

installation, maintenance, repair, or alteration under this exemption, or their employees, shall not be covered by the licensing requirements of this article but shall be subject to all provisions of this chapter pertaining to permitting and inspections.

(Code 1994, § 16.32.350; Ord. No. 13, 2015, § 2, 6-2-2015; Ord. No. 27, 2017, § 1(exh. A), 7-18-2017)

Secs. 22-436--22-453. Reserved.

CHAPTER 12. FIRE CODE

~~**Editor's note**— Ord. 47, 2016 , §§1(Exh. A) and 2(Exh. B), adopted Dec. 20, 2016, repealed Ch. 16.36, §§ 16.36.010 — 16.36.200, and reenacted a new Ch. 16.36 as set out herein. The former Ch. 16.36 pertained to similar subject matter and derived from Ord. 34, 2012 §§1, 9.~~

Sec. 22-454. International Fire Code adopted.

The International Fire Code, 2018 edition, is hereby adopted by reference for the city, except as amended in this chapter, and is hereinafter referred to as the "fire code." The fire code is published by the International Code Council, Inc., 5360 Workman Mill Road, Whittier, CA 90601-2298. The fire code shall establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life, safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises and to provide safety to firefighters and emergency responders during emergency operations.

(Code 1994, § 16.36.010; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. I, § 16.16.010, 9-3-2019)

Sec. 22-455. Additions, deletions and amendments to fire code designated.

Sections 101.1, 102.3, 102.4, 102.7, 104.1.1, 105.6.32, 109.1, 110.4, 112.4, 903.2.8, 5504.3.1.1.3, 5704.2.9.6.1, 5706.3.1, 5706.3.1.1, 5706.3.1.2, 5706.3.1.3.1, 5706.3.1.3.2, 6104.2.1 and 6104.3.2 of the fire code are hereby enacted as amended, added or deleted to read as set out in sections 22-456 through 22-473.

(Code 1994, § 16.36.015; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. I, § 16.06.020, 9-3-2019)

Sec. 22-456. Section 101.1 amended; title.

Sec. 101.1 of the fire code is amended to read as follows:

101.1 Title. These regulations shall be known as the fire code of the City of Greeley hereinafter referred to as the "fire code."

(Code 1994, § 16.36.020; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-457. Section 102.3 amended; change of use or occupancy.

Sec. 102.3 of the fire code is amended to read as follows:

102.3 Change of use or occupancy. The provisions of the fire code and all currently adopted building codes shall apply to all buildings undergoing a change of occupancy.

(Code 1994, § 16.36.030; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-458. Section 102.4 amended; application of building code.

Sec. 102.4 of the fire code is amended to read as follows:

102.4 Application of building code. The design and construction of new structures shall comply with the fire code and all currently adopted building codes. Repairs, alterations and additions to existing structures shall comply with the fire code and all currently adopted building codes.

(Code 1994, § 16.36.040; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-459. Section 102.7 amended; referenced codes and standards.

Sec. 102.7 of the fire code is amended to read as follows:

102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in chapter 45, except that references to the National Fire Protection Association standards shall refer to the most current edition of such standard and all references to the ICC Electrical Code shall mean the currently adopted electrical code. Such codes and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between the provisions of this code and the referenced standards, the provisions of this code shall apply.

(Code 1994, § 16.36.050; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-460. Section 104.1.1 added; building safety unit personnel and police.

Sec. 104.1.1 of the fire code is added to read as follows:

104.1.1 Building safety unit personnel and police. The chief and members of the fire prevention bureau shall have the powers of a police officer, to issue a notice of violation, and in performing their duties under this code. When requested to do so, the chief of police is authorized to assign such available police officers as necessary to assist the fire department and building safety unit personnel in enforcing the provisions of this code.

(Code 1994, § 16.36.060; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-461. Section 105.6.32 amended; open burning.

Sec. 105.6.32 of the fire code is amended to read as follows:

105.6.32 Open burning. An operational permit is required from the city, for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to.

Exception: Recreational fires to include controlled fires in commercially manufactured fire pits and chimineas located at least 15 feet from a structure, constantly attended, and an adequate method of extinguishment readily available. Must also comply with Clean Air Laws.

(Code 1994, § 16.36.070; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-462. Section 109.1 amended; appeals process.

Sec. 109.1 of the fire code is amended to read as follows:

109.1 Appeals process. All appeals shall first be made in writing to the fire marshal. A subsequent appeal to the fire marshal's decision shall be made in writing to the fire chief. An appeal to the fire chief's decision shall be made in writing to the city construction trades advisory and appeals board. All decisions and findings shall be rendered in writing to the appellant with a duplicate copy filed in the office of the fire marshal. Rulings by the city construction trades advisory and appeals board shall be final.

(Code 1994, § 16.36.080; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34,2019, app. I § 16.36.080, 9-3-2019)

Sec. 22-463. Section 110.4 amended; violation penalties.

Sec. 110.4 of the fire code is amended to read as follows:

110.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be ~~guilty of a misdemeanor infraction, and subject to the sentencing guidelines of~~ punishable pursuant to chapter 9 of title 1 of this Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Code 1994, § 16.36.090; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34, 2019, app. I, § 16.36.090, 9-3-2019; Ord. No. 53, 2019, exh. A, § 16.36.090, 12-17-2019)

Sec. 22-464. Section 111.4 amended; failure to comply.

Sec. 111.4 of the fire code is amended to read as follows:

111.4 Failure to comply. Any person who shall continue any work after having been served with a stop-work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be ~~guilty of a misdemeanor infraction, and subject to the sentencing guidelines of~~ punishable pursuant to chapter 9 of title 1 of this Code.

(Code 1994, § 16.36.100; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016; Ord. No. 34,2019, app. I § 16.36.100, 9-3-2019; Ord. No. 53, 2019, exh. A, § 16.36.100, 12-17-2019)

Sec. 22-465. Section 903.2.8 amended; Group R.

Sec. 903.2.8 of the fire code is amended to read as follows:

903.2.8 Group R. An automatic sprinkler system installed in accordance with section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exception: One- and two-family dwelling units unless otherwise required based upon fire flow, fire apparatus access, to include gated communities, or other life safety hazard as deemed by the fire code official.

(Code 1994, § 16.36.110; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-466. Section 5504.3.1.1.3 amended; location.

Sec. 5504.3.1.1.3 of the fire code is amended to read as follows:

5504.3.1.1.3 Location. Stationary containers shall be located in accordance with section 3203.6. Containers of cryogenic fluids shall not be located within diked areas containing other hazardous materials.

Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited except in those areas zoned industrial.

(Code 1994, § 16.36.120; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-467. Section 5704.2.9.6.1 amended; locations where aboveground tanks are prohibited.

Sec. 5704.2.9.6.1 of the fire code is amended to read as follows:

5704.2.9.6.1 Locations where aboveground tanks are prohibited. Storage of Class I and II liquids in aboveground tanks outside of buildings shall be prohibited except in those areas zoned C-L, C-H, I-L, I-M, I-H, H-A and PUD subject to the approval of the fire code official.

(Code 1994, § 16.36.130; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-468. Section 5706.3.1 amended; location.

Sec. 5706.3.1 of the fire code is amended to read as follows:

5706.3.1 Location. The location of oil and natural gas operations shall be in accordance with Safety Regulations of the Colorado Oil and Gas Conservation Commission and the City of Greeley Development Code. Setbacks contained therein shall apply to new and existing oil and gas operations.

(Code 1994, § 16.36.140; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-469. Section 5706.3.1.2 deleted; streets and railways.

Sec. 5706.3.1.2, Streets and railways, shall be deleted in its entirety.

(Code 1994, § 16.36.160; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-470. Section 5706.3.1.3.1 deleted; Group A, E or I buildings.

Sec. 5706.3.1.3.1, Group A, E or I buildings, shall be deleted in its entirety.

(Code 1994, § 16.36.170; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-471. Section 5706.3.1.3.2 deleted; existing wells.

Sec. 5706.3.1.3.2, Existing wells, shall be deleted in its entirety.

(Code 1994, § 16.36.180; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-472. Section 6104.2.1 added; maximum capacity with limits in residential areas.

Sec. 6104.2.1 of the fire code shall be added as follows:

6104.2.1 Maximum capacity with limits in residential areas. The storage and use of liquefied petroleum gas in residential areas for barbeques, RVs or other recreational uses shall be limited to portable containers of 10-gallon water capacity or less per dwelling unit. The total amount to be allowed in storage or use shall be limited to 20-gallon water capacity per dwelling unit.

(Code 1994, § 16.36.190; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Sec. 22-473. Section 6104.3.3 added; structure fuel containers.

Sec. 6104.3.3 of the fire code shall be added as follows:

6104.3.3 Structure fuel containers. Containers used to fuel structures shall be prohibited where a natural gas utility is available for such purposes within 1,000 feet of the structure.

(Code 1994, § 16.36.200; Ord. No. 47, 2016, §§ 1(exh. A), 2(exh. B), 12-20-2016)

Secs. 22-474--22-499. Reserved.

CHAPTER 13. MOBILE HOMES

Sec. 22-500. General provisions.

(a) The use and occupancy of mobile homes as permitted by this chapter shall be subject to the regulations of other applicable codes and ordinances of the city and, in particular, title 24 of this Code, unless otherwise provided in this chapter. If the regulations in this chapter impose higher standards than required by other applicable ordinances or laws, the more restrictive standards shall apply.

(b) If the law under which a particular mobile home community was established is more restrictive than the provisions set forth for nonconforming communities by this chapter, those more restrictive provisions shall continue to apply.

(c) The chief building official designated by the city manager shall administer and enforce this chapter.

(d) Unlawful acts. It shall hereafter be unlawful for any person to place a mobile home in any location in the city except in conformance with the provisions of this chapter.

(Code 1994, § 16.44.010; Ord. No. 70, 1998, § 1(part), 12-1-1998)

Sec. 22-501. Installation standards.

(a) *Permit required for installation*. No mobile home shall be installed on a home site without first obtaining a building permit from the building official for each such installation.

(b) *Mobile home inspection*. Each mobile home shall be in generally sound physical condition as determined by the building official prior to the issuance of a permit. No mobile home shall be installed or placed upon a home site after the effective date of the ordinance form which this chapter is derived unless such home bears a label or has equivalent documentation certifying that the home was constructed in accordance with the Federal Manufactured Home Construction and Safety Standards Act of 1976 or NFPA, ANSI 119.1 or the equivalent. Mobile homes constructed before June 15, 1976, may be installed subject to approval on an individual basis by the building official, upon finding that the home is in safe, sound physical condition, and meets all other provisions of the standards specified in this chapter. Prior to the inspection by the building official, a permit shall be issued to the purchaser of the mobile home. This permit is to cover the costs of the inspection.

(c) *Site preparation and foundations*. All pad site foundations shall be cleared of vegetation, located on undisturbed soil or approved fill and be graded such that supporting piers are plumb. The following foundation standards shall be applied, unless the building official approves equivalent techniques for site preparation and foundations that are as safe or safer than the techniques described herein.

(d) *Skirting*. Each mobile home shall be provided with perimeter skirting between the ground and bottom of the mobile home floor within 30 days after utility connections are made. Such skirting shall be a durable rigid, weather-resistant siding material approved for such use, such as finished exterior plywood, fiberglass or equivalent

material, all of similar style to that of the mobile home. Skirting shall be securely attached to the mobile home to prevent unsupervised access to mobile home utility connections. The building official may approve equivalent techniques for skirting for mobile homes if the official feels the equivalent techniques are as safe or safer than the techniques described herein.

(e) *Anchoring and tie-down requirements*. General requirements. Every mobile home shall have an anchoring system installed which will prevent uplift, sliding, rotation and overturning. Such system shall be composed of approved cables, eye bolts, straps and other hardware sufficient to withstand a tensile load of 4,725 pounds at each anchor connection, without failure, creep or withdrawal. All such hardware shall be corrosion-resistant-coated steel or equivalent.

(f) *Tie-down requirements*. Number of sets and anchors. Mobile homes up to 50 feet in length shall have two tie-down sets and four anchors. Mobile homes between 50 and 70 feet in length shall have three tie-down sets and six anchors. Mobile homes over 70 feet in length shall have four tie-down sets and eight anchors.

(g) *Tie-down requirements*. Types of tie-downs allowed. Tie-downs shall be cable, steel strapping, steel bands or other materials having equivalent strength and holding power. The following tie-down requirements shall be applied unless the building official approves equivalent techniques for tie-downs or anchors that are as safe or safer than the techniques described herein:

(1) *Cable*. When cable is used for tie-downs, it shall either be galvanized or stainless steel. The cable shall be at least three-eighths-inch diameter. Steel cable shall be 7 x 7 (7 strands of 7 wires each). Aircraft cable may be used that is at least 7 x 19 (7 strands of 19 wires each).

(2) *Steel strapping*. When flat steel strapping is used for tie-downs, it shall meet all federal specifications. Strapping shall have a breaking strength of 4,750 pounds and have zinc coating of a minimum of 0.30 ounce per square foot of surface.

(3) *Steel bands*. Steel bands used for ties shall terminate with D-rings or other devices that will not cause distortion of the band with a tensioning device attached.

(4) *Use of other types of tie-downs*. Other materials, connectors or means of securing tie-downs may be considered by the ~~administrative~~ building official, provided they are equal to the above specifications in permanence, strength, holding power and weather resistance.

(h) *Tie-down requirements*. Anchorage and turnbuckles. All ties shall be fastened to an anchorage and shall be drawn tight with one-half-inch or larger galvanized, drop-forged turnbuckles or other equivalent tightening device approved by the ~~administrative~~ building official or designee. Turnbuckles are ended with jaws of forged or welded eyes. Turnbuckles with hook ends shall not be used.

(i) *Tie-down requirements; connections; prevention of cutting*. Connection to the I-beam may be by a five-eighths-inch drop-forged closed eyed, bolted through a hole drilled through the beam. A washer or its equivalent is used so that the beam is sufficiently fishplated through the hole. Sharp edges of the mobile home that would tend to cut the cable when the home is buffeted by wind shall be protected by a thimble or other device to prevent cutting.

(j) *Anchorage*. The anchoring system shall be composed of approved materials and installed in a manner to prevent movement. The following anchorage requirements shall be applied unless the building official approves equivalent techniques for anchors that are as safe or safer than the techniques described herein:

(1) *Over-the-home ties*. When designed to accommodate over-the-home ties, ground anchors shall be aligned with piers and situated immediately below the outer wall of the mobile home, provided this placement allows for sufficient angle for anchor-to-frame connections.

(2) *Steel rods; dead-anchors*. Steel rods shall be of a five-eighths-inch minimum diameter with a forged or welded eye at the top; the bottom of the rod for dead-man anchors shall be hooked into the concrete. Dead-man anchors shall be sunk to a depth of at least three feet, with a minimum vertical dimension of two feet, and a diameter of six inches.

(3) *Concrete slabs*. The ~~administrative~~ building official may approve anchors to reinforced concrete slabs. Anchors shall be spaced a maximum of eight feet on center and no more than five feet from each end of the mobile home. No celled concrete block shall be provided.

(4) *Augers*. Augers shall be at least six inches in diameter, with arrowheads of eight inches and shall be sunk to a depth of at least three feet.

(k) *Piers*. One pier shall be required for each required anchorage. Required piers shall be centered under each main frame or chassis member within five feet of anchorage, and the end piers shall be no farther than five feet from the ends of the mobile home.

(1) *Piers and footings*. All piers shall be placed on footers of concrete with a minimum dimension of sixteen inches by 16 inches by four inches (16" x 16" x 4"), or an equivalent approved by the ~~administrative~~ building official. Piers shall be topped with a concrete cap eight inches by 16 inches by four inches (8" x 16" x 4").

(2) *Pier dimensions*. Piers shall be constructed as standard eight inches by eight inches by 16 inches (8" x 8" x 16") celled concrete blocks placed over the footings with the long dimension crosswise to the main frame members and centered under them with cells vertical. Piers shall be placed in a manner that allows the mobile home to be located as close to the ground as possible.

(3) *Piers; shims*. Hardwood shims are driven tight between the cap and each side of the main frame to provide uniform bearing and are four inches or less in thickness and wide enough to provide bearing over the top cap.

(4) *Other types of piers and footings*. The ~~administrative~~ building official may approve other types of piers and footings of equivalent permanence and weight-bearing ability.

(5) *Metal stands*. Metal stands engineered and designed for mobile home installation and approved by the building official may be used. Stands shall be installed per manufacturer's requirements.

(l) *Alternative tie-down and blocking methods*. If a mobile home community owner or developer wishes to use different tie-down, blocking or anchorage systems than those required by this chapter, the owner shall first obtain approval from the city's ~~administrative~~ building official, demonstrating compliance with this code and ordinances and with professional standards and methods. The planning commission shall grant approval at the time the proposed final site plan is under review.

(m) *Landings and porches*. Each mobile home shall be provided with a minimum 36-inch by 36-inch landing or porch within eight inches, measured vertically, of all doorway thresholds. Such landing or porch shall be served by stairs or ramp, guardrail and handrails constructed in accordance with the city building code.

(Code 1994, § 16.44.020; Ord. No. 70, 1998, § 1(part), 12-1-1998)

Sec. 22-502. Utility connections.

(a) *Utility service connections; safety*. All utilities shall be designed and installed with appropriate distribution systems supplying each mobile home pad site in accordance with the plumbing, mechanical and electrical codes as adopted by the city. The utility stand shall include risers for each utility service provided or required by the units located within the park. The utility risers shall be located and installed so as not to be damaged during the placement or removal of the mobile home.

(b) *Electrical grounding*. Every mobile home frame shall be electrically grounded by means of an approved metallic water pipe ground or approved ground rod.

(c) *Electrical wiring; safety*. All electrical wiring and distribution equipment within a mobile home shall be in safe working condition and shall conform to standards which were applicable at the time of the construction of said mobile home.

(d) *Plumbing fixtures; safety*. All plumbing fixtures, drainage piping and water piping within the mobile home shall be in safe working condition.

(e) *Sewer connections; safety; sewer infiltration; inflow prevention*. All mobile home sewer connections shall be watertight, sealed in an approved manner at the point of connection to community services and shall be entirely under the mobile home. All sewer stubs not in use shall be capped with a watertight and airtight lid.

(f) *Water distribution; safety*. Potable water distribution systems supplying all mobile homes shall not use cross connections. Water lines and connections shall be protected from freezing in an approved manner.

(g) *Yard faucet*. Each mobile home stand within a park shall be equipped with a yard faucet capable of accommodating a standard garden hose or substitute approved by the city, complete with approved backflow protection.

(h) *Gas valves; safety*. Gas valves shall be of an approved type. A pressure test as prescribed in this Code shall be performed on mobile home gas piping systems.

(i) *Heating to conform to code and ordinances*. All heating of any service buildings and mobile homes shall be constructed and maintained in accordance with the city's heating and comfort cooling code and ordinances. Replacement of heating equipment, as defined in the city's mechanical code, shall require a city building permit for mechanical work ~~(section 16.44.370)~~.

(j) *Fuel-burning heating equipment; inspected*. Fuel-burning heating equipment as defined in the city mechanical code, including furnaces and water heaters, shall be listed for use in mobile homes. Such equipment shall be inspected by the building official at the time of set-up and found to be in safe operating condition.

(k) *Fuel-burning heating equipment; wood-burning stoves*. Wood-burning stoves in mobile home units shall conform with the provisions for fuel-burning equipment in this chapter and shall comply with federal, state and local emission standards and shall be listed and approved for mobile home use.

(Code 1994, § 16.44.030; Ord. No. 70, 1998, § 1(part), 12-1-1998)

Secs. 22-503--22-527. Reserved.

CHAPTER 14. TRAVEL TRAILER PARKS

Sec. 22-528. License required.

It is unlawful for any person, firm or corporation to establish, maintain, operate or permit to be established, maintained or operated any travel trailer park within the city without first having secured a license therefor.

(Prior Code, § 14A-20(a); Code 1994, § 16.48.010)

Sec. 22-529. License term, fee.

The license provided for at section 22-528 shall be issued for a one-year period, and the annual license fee for each travel trailer park shall be set in accordance with section 1-38.

(Prior Code, § 14A-20(b); Code 1994, § 16.48.020; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 22-530. Application procedure and contents.

Applications for licenses to operate travel trailer parks shall be filed with the director of finance, and the license shall be issued after site plan approval by the planning commission and after payment of any required fees. The application shall be in writing and shall include the following:

(1) The name and address of the applicant;

(2) The location and description of the area;

(3) A complete site plan showing where mobile homes will be located and showing the location and specifications of the various requirements and conditions set forth in sections 22-534 and 22-536 through 22-551, including any proposed landscaping;

(4) Such additional information as may be required by the city engineer in order to determine that the proposed travel trailer park will comply with all legal requirements;

(5) Utility plan for sewers and water lines;

(6) Results of soil boring tests for each five acres;

(7) Details of sidewalks, streets and drainage structures;

(8) Criteria used in solving drainage problems.

(Prior Code, § 14A-21; Code 1994, § 16.48.030)

Sec. 22-531. Renewal.

Upon payment of the annual license fee an existing licensee shall be issued a renewal license, provided that no violations of this chapter then exist.

(Prior Code, § 14A-20(d); Code 1994, § 16.48.040)

Sec. 22-532. Transfer to new owner.

If a licensee sells the real estate composing the travel trailer park, the new owner shall immediately apply to the director of finance for a transfer of the license and the director shall thereupon cancel the existing license and issue a new license for the same period.

(Prior Code, § 14A-20(e); Code 1994, § 16.48.050)

Sec. 22-533. Revocation for uncorrected violations.

The director of finance shall revoke a license of a licensee who is convicted of any violation of this chapter if the condition which results in the conviction has not been corrected within 15 days thereof.

(Prior Code, § 14A-20(f); Code 1994, § 16.48.060)

Sec. 22-534. Zoning conformance, approval and compliance.

Travel trailer parks must be located only in zoning districts in which they are specifically permitted under the zoning laws. The site plan for each travel trailer park must be approved by the planning commission, and the conditions set out in sections 22-535 through 22-551 must be found to exist before approval can be given.

(Prior Code, § 14A-22(part); Code 1994, § 16.48.070)

Sec. 22-535. Common ownership of land.

All land composing a travel trailer park shall be in common ownership.

(Prior Code, § 14A-20(c); Code 1994, § 16.48.080)

Sec. 22-536. Site range; fire zone restriction.

The travel trailer park will have an area of not less than eight acres and not more than 20 acres, and will not be in a No. 1 fire zone.

(Prior Code, § 14A-22(a)(1); Code 1994, § 16.48.090)

Sec. 22-537. Drainage and grading standard; storm sewers may be required.

The area of a travel trailer park will be well drained and properly graded to insure rapid drainage and freedom from stagnant pools of water. Storm sewers shall be required if deemed necessary by the city engineer.

(Prior Code, § 14A-22(a)(2); Code 1994, § 16.48.100)

Sec. 22-538. Clearance standards.

There will be at least ten feet clearance between mobile homes, at least ten feet clearance between each mobile home and any permanent structure in the travel trailer park, and at least 20 feet clearance between mobile homes and any property lines bounding the travel trailer park.

(Prior Code, § 14A-22(a)(3); Code 1994, § 16.48.110)

Sec. 22-539. Access to street required; minimum street width.

All mobile homes in a travel trailer park will be so located so as to have access to a street of not less than 30 feet in width exclusive of sidewalks. The use of the term "street" in these provisions does not require the establishment of public rights-of-way open to the public or impose obligations upon the city for maintenance.

(Prior Code, § 14A-22(b)(1); Code 1994, § 16.48.120)

Sec. 22-540. Off-street parking requirements.

At least one off-street parking space will be provided for each mobile home in a travel trailer park.

(Prior Code, § 14A-22(b)(2); Code 1994, § 16.48.130)

Sec. 22-541. Entrance requirements.

The travel trailer park shall have at least one entrance onto a public street or highway for each 100 mobile homes.

(Prior Code, § 14A-22(b)(3); Code 1994, § 16.48.140)

Sec. 22-542. Sidewalks required; specifications.

Sidewalks will be constructed adjacent to and on both sides of all streets in travel trailer parks. The sidewalks shall be constructed of concrete and otherwise shall be constructed in accordance with chapter 1 of title 18 of this Code and as otherwise provided in this section. The sidewalks shall be three feet wide or more, and the high point of the sidewalk will be at least two inches higher than the surface of the outer edges of the street.

(Prior Code, § 14A-22(b)(4); Code 1994, § 16.48.150)

Sec. 22-543. Street paving; illumination requirements.

All streets within a travel trailer park will be paved, and all streets and sidewalks will be illuminated at night to provide a minimum illumination at ground level of 0.3 footcandles. The illumination system shall be centrally controlled by the licensee or his manager.

(Prior Code, § 14A-22(b)(5); Code 1994, § 16.48.160)

Sec. 22-544. Landscaped border requirements.

Each travel trailer park will have at least a 20-foot strip landscaped with grass, bushes and trees, which strip will be located on the travel trailer park property along all boundary lines thereof. In addition, there will be a portion of each travel trailer park set aside for park and recreational purposes. The size of such portion shall be equal to at least 100 square feet for each mobile home which the travel trailer park is designed to accommodate.

(Prior Code, § 14A-22(c); Code 1994, § 16.48.170)

Sec. 22-545. Service building requirements.

(a) Each travel trailer park shall be improved with a service building containing the following minimum facilities:

Sites	*Toilets*		*Urinals*	*Lavatories*		*Showers*	
	M	F	M	M	F	M	F
15	1	1	1	1	1	1	1
16—30	1	2	1	2	2	1	1
31—45	2	2	1	3	3	1	1
46—60	2	3	2	3	3	2	2
61—80	3	4	2	4	4	2	2
81—100	3	4	2	4	4	3	3
M = Male, F = Female							

(b) For every 30 additional sites in excess of 100 sites, one additional male toilet, female toilet, male lavatory and female lavatory shall be provided. For every 40 additional sites in excess of 100 sites, one additional male shower and female shower shall be provided. For every 100 additional sites in excess of 100 sites, one additional urinal shall be provided.

(Prior Code, § 14A-22(d); Code 1994, § 16.48.180)

Sec. 22-546. Water supplied by city.

The water supply will be connected to the municipal water system and all plumbing shall be constructed and maintained in accordance with the city's plumbing code and ordinances.

(Prior Code, § 14A-22(e)(1); Code 1994, § 16.48.190)

Sec. 22-547. Sewers connected to city system; emptying facilities.

The sewer system of the travel trailer park will be connected to the municipal sewer system, and all plumbing shall be constructed and maintained in accordance with the city's plumbing code and ordinances. The sewer systems shall be designed so that sewage and waste from mobile homes can be emptied into the sewer system.

(Prior Code, § 14A-22(e)(2); Code 1994, § 16.48.200)

Sec. 22-548. Undergrounding of utilities.

All power, telephone and other utility service lines within the travel trailer park will be located under the surface of the ground. All electrical wiring, outlets, etc., shall be constructed and maintained in accordance with the city's electrical code and ordinances.

(Prior Code, § 14A-22(e)(3); Code 1994, § 16.48.210)

Sec. 22-549. Service-building heating conformance.

The heating of the service building shall be constructed and maintained in accordance with the city's heating and comfort cooling code and ordinances.

(Prior Code, § 14A-22(e)(4); Code 1994, § 16.48.220)

Sec. 22-550. Fire prevention systems.

There shall be a fire hydrant system on water lines at least six inches in diameter and free of dead-end mains. The system shall ensure that no mobile home is further than 500 feet from a hydrant by street travel. Portable fire extinguishers of the type approved by the fire chief shall be kept in the service building and in all other locations named by the fire chief and shall be maintained at all times in good operating condition.

(Prior Code, § 14A-22(e)(5); Code 1994, § 16.48.230)

Sec. 22-551. Continuing nature of requirements; noncompliance unlawful.

The conditions set forth in sections 22-536 through 22-550 shall, upon the issuance of a license under this chapter, be continuing requirements, and the licensee's failure to meet any such requirements is unlawful.

(Prior Code, § 14A-22(f); Code 1994, § 16.48.240)

Sec. 22-552. Duration of stay; permit requirements.

The owner or occupier of a mobile home shall be entitled to locate such mobile home in a travel trailer park for longer than 14 days if a special permit has been issued. Application for such a permit shall be made to the director of finance, and such permit shall be issued if the director finds that such a permit has not been issued to the same applicant, or to a member of his immediate family, within the preceding 12 months and if the director determines that the applicant is to be temporarily located in the city area in connection with short-term educational or employment commitments. Permits shall authorize the mobile home to be located in the travel trailer park for an additional period of time corresponding to the requirements of the applicant, but not longer than six months. The permit shall be nontransferable.

(Prior Code, § 14A-23; Code 1994, § 16.48.250)

Secs. 22-553--22-582. Reserved.

CHAPTER 15. WAIVER OF INSPECTION AND FEES

Sec. 22-583. Mutual waiver agreement.

The mayor and appropriate city officials are authorized and directed to sign an agreement with county for the waiver of certain building fees and the inspection of construction within the other entity's jurisdiction. The

agreement is attached to the ordinance codified at this section as exhibit A and incorporated in this section and that ordinance by reference.

(Code 1994, § 16.52.010; Ord. No. 46, 1980, § 1, 6-3-1980)

Secs. 22-584--22-614. Reserved.

CHAPTER 16. OIL AND GAS EXPLORATION WELL DRILLING

Sec. 22-615. Prohibited; exceptions.

The drilling of any well for the purpose of exploration or production of oil and gas or other hydrocarbons within the corporate limits of the city is prohibited, except that such drilling may be conducted within zoned industrial districts as a use by special review as provided under chapter 9 of title 24 of this Code.

(Code 1994, § 16.56.010; Ord. No. 89, 1985, § 1, 9-17-1985; Ord. No. 90, 1985, § 1, 9-17-1985: Ord. No. 34, 1987, § 1, 7-21-1987)

Sec. 22-616. Insurance requirements.

Every operator of an oil or gas well shall furnish to the city proof of liability insurance in an amount not less than $500,000.00 as a condition precedent to the issuance of an operating permit as required and provided under chapter 12 of this title. Insurance policies as required by this section shall be written by a company authorized to do business in the state and shall provide that the city receive written notice from the surety at least 30 days prior to any lapse, cancellation or voiding of the policy for any reasons whatsoever. Such notice shall be delivered by certified mail or personal service upon the fire chief for the fire department.

(Code 1994, § 16.56.015; Ord. No. 60, 1987, § 1, 12-1-1987)

Sec. 22-617. Violation; penalty.

Any person, firm or corporation violating the ordinance codified in this chapter shall be punished as provided by section 3-4 of the city Charter and chapter 9 of title 1 of this Code.

(Code 1994, § 16.56.020; Ord. No. 89, 1985, § 3, 9-17-1985; Ord. No. 90, 1985, § 3, 9-17-1985)

Secs. 22-618--22-637. Reserved.

CHAPTER 17. HISTORIC PRESERVATION

Sec. 22-638. Statement of purpose.

The intention of this chapter is to:

(1) Designate, preserve, protect, enhance and perpetuate those sites, structures, objects and districts which reflect outstanding elements of the city's cultural, artistic, social, ethnic, economic, political, architectural, historic, technological, institutional or other heritage; and also to establish a method to draw a reasonable balance between the protection of private property rights and the public's interest in preserving the city's unique historic character by creating a quasi-judicial commission to review and approve or deny any proposed demolition of, moving of or alteration to properties of historic value. In cases of historic districts or non-owner-nominated properties for historic designation, and changes to an existing district designation plan, decisions of the commission are forwarded to the city council for approval under section 22-648. All other actions by the commission are considered final actions and may be appealed to the city council under section 22-657. The findings and determinations of the commission may be reviewed, modified, affirmed or reversed by a simple majority vote of the elected members of the city council, as provided in section 22-657.

(2) Foster civic pride in the beauty and accomplishments of the past.

(3) Stabilize or improve aesthetic and economic vitality and values of such sites, neighborhoods, structures, objects and districts.

(4) Protect and enhance the city's attraction to tourists and visitors, increase the quality of life for the citizens and enhance future economic development.

(5) Promote the use of outstanding historical or architectural sites, structures, objects and districts for the education, stimulation and welfare of the people of the city.

(6) Promote good urban design.

(7) Promote and encourage continued private ownership and utilization of such sites, structures, objects or districts.

(8) Integrate historic preservation with the city's comprehensive development plan.

(Code 1994, § 16.60.010; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-639. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any act or process requiring a building permit, moving permit, demolition permit or sign permit for the reconstruction, moving, improvement or demolition of any designated property or district; or any other action in which a review by either the commission or the city's historic preservation specialist is necessary under this chapter and/or the district designation plan.

Burden of proof, under this chapter, shall be a preponderance of the evidence.

Certificate of approval means a certificate issued by the commission to indicate its approval of a building permit, moving permit, demolition permit, sign permit or any other alteration in which a review is necessary by either the commission or the city's historic preservation specialist to authorize the construction, alteration or demolition of property and improvements designated under this chapter.

Commission means the historic preservation commission as created in section 22-640.

Contributing buildings, sites and structures means historic properties within the proposed district which have been designated for inclusion on the city's historic register. Additional properties within the proposed district may be designated or may remain as contributing nondesignated properties. Nondesignated properties contribute to the historic district by their shared and unique architectural, historical or geographic characteristics. Contributing properties, designated or not, are subject to all historic preservation design review guidelines applicable to individually designated properties as well as design review guidelines applicable to designated and contributing properties within the specific historic district.

Designated property means an historic property individually listed on the city's historic register through the procedural requirements in sections 22-643 and 22-644 and which meets the criteria set forth in section 22-642. Designated properties are subject to the restrictions in section 22-650, and the economic incentives are available to designated properties as set forth in section 22-649.

District designation plan is a plan generated by the historic district residents/owners. This plan shall incorporate elements such as, but not limited to, building height, setback, building envelope and new construction. The plan shall address all properties; contributing, noncontributing and properties individually listed on the city's historic register. If a provision of the district designation plan conflicts with this chapter, then the district designation plan approved by the city council under subsection 22-648(b) shall prevail unless doing so would negatively affect the city's certification standing regarding historic preservation.

Emergency means an unexpected and sudden event that must be dealt with urgently that deals with a property in order to preserve the structure.

~~*Front yard* means the area of property from the front of the house (main entrance of property) to the edge of property leading away from the front of the house. This area would include sides of the house to the street, either from a fence line or the midline along the side of the house. In cases where a house is on a corner and there is not a fence, the yard from the side would also be included under *front yard*.~~

Historic district means a geographically definable area with a significant concentration of buildings, structures, sites, spaces or objects unified by past events, physical development, design, setting, materials, workmanship, sense of cohesiveness or related historical and aesthetic associations. The significance of a district

may be recognized through listing in a local, state or national landmarks register.

Historic property means the public and private resources in the city, including buildings, homes, replicas, structures, objects, properties, parks and sites that have importance in the history, architecture, archeology or culture of the city, state or nation, as determined by the commission.

House moving, new construction or demolition means any act or process which destroys, in part or in whole, any designated property.

Nomination means the process of filing an application for designation. For a property to be nominated, it is not necessary that all research and paperwork be completed. For a district or nonowner application for designation, all paperwork for application must be completed as per the rules promulgated by the commission. Nonowner or historic districts must be approved by the city council under section 22-648.

Noncontributing buildings, sites and structures means those properties which do not share the architectural, historic or geographical characteristics of the historic district except for their physical presence within the district. These properties are not individually eligible for designation and do not contribute to the historic district's characteristics. Inclusion of these properties within an historic district subjects these properties to those design review standards and guidelines applicable to noncontributing properties established during the creation of the historic district, unless specifically excluded under the district designation plan. All pertinent municipal zoning and building codes are applicable. New construction shall be considered a noncontributing structure.

Preservation plan means a survey of the historic properties in the city which the commission has an interest, consistent with its stated purpose, in placing on the local register.

Public comment means any notation, observation, remark or recommendation made during a hearing by a member of the public in response to a proposed commission action.

Register means a locally maintained list of properties designated as historic.

Replica means any reconstruction or recreation of any buildings, structures or other resources deemed to be of historic importance by the commission.

~~*Secretary of the Interior Standards* means a document which was originally published in 1977 and revised in 1990. The standards compose one section in the Secretary of the Interior's Standards for Historic Preservation Projects and appear in Title 36 of the Code of Federal Regulations, Part 68, which governs alterations to buildings listed in the National Register of Historic Places. The standards, which pertain to the exterior and interior of historic buildings, deal with design, methods of construction and materials. This reference shall always refer to the current standards, as amended.~~

Streetscaping means rehabilitation, preservation and beautification of those exterior elements of a designated property which are visible from a street.

Unreasonable economic hardship means severe economic impact to the property as determined on a case-by-case basis by the commission.

(Code 1994, § 16.60.020; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-640. Commission created.

(a) *Commission established*. There is hereby created an historic preservation commission, hereinafter in this chapter referred to as the commission, which shall have principal responsibility for matters of historical preservation.

(b) *Membership*. The commission shall consist of seven members providing a balanced, community-wide representation, and all shall have an interest in historic preservation. The commission shall have at least one design professional, one historian, one licensed real estate broker and four citizens at-large.

(c) *Appointment of historic preservation specialist.* There shall be an historic preservation specialist appointed by the city manager to serve as a link between the city staff and the commission. The historic preservation specialist shall not be a member of the commission.

(Code 1994, § 16.60.030; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000,

§ 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-641. Powers, duties and rulemaking authority.

The commission shall act in a quasi-judicial manner and shall draw a reasonable balance between the protection of private property rights and the public's interest in preserving the city's unique historic character. It shall have the following powers, duties and rule-making authority, subject to approval by the city council under section 22-648 for historic districts and nonowner nominations:

(1) Recommend criteria for approval by the city council by which the commission shall conduct its review of historic properties and review proposals to alter, demolish or move designated properties. The commission shall recommend or designate those properties or districts which meet the applicable criteria by placing them on the local register under the rules and procedures under this chapter.

(2) Conduct surveys for the purpose of creating a preservation plan of historic properties and districts. Such inventory is for the purpose of informing citizens who own such properties that the commission expects these properties may meet the criteria for designation.

(3) Review and make a decision on any application for altering, moving or demolishing any designated properties.

(4) Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, including nomination to the National Register of Historic Places.

(5) Develop and assist in public education programs, including, but not limited to, walking tours, brochures, a marker program for historic properties, lectures and conferences.

(6) Advise the city council on matters related to preserving the historic character of the city.

(7) Assist in pursuing financial assistance for preservation-related programs.

(8) Establish such rules, regulations and procedures relating to designation, nomination, preservation, relocation, demolition, exemptions, economic incentives, appeal of decisions or other processes relating to the powers and duties of the commission.

(9) Remove properties from the register for reasons the commission deems appropriate, including, but not limited to, acts of God, undue hardship and public health/safety concerns.

(10) Cause to be issued by the appropriate city department such municipal citations as are appropriate for enforcement.

(11) Recommend an application fee for applications made by citizens who are applying for historical designation or who are applying to alter, move or demolish a historically designated property or a property in a designated historic district. Additionally, the commission shall have the authority to set formal policy regarding the implementation and waiver of the application fee. The commission will consider in recommending the fee that the purpose of said fee is to partially recover costs the city will incur in providing applications. All fees and or costs recommended by the commission shall be reviewed and set in accordance with section 1-38.

(Code 1994, § 16.60.050; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 39, 1996, § 1, 7-16-1996; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 22-642. Criteria for designation.

(a) A property shall be eligible for designation for historic preservation and eligible for economic incentives if it meets at least one criterion in two or more of the following categories:

(1) Historical significance. The site, building or property:

a. Has character, interest and integrity and reflects the heritage and cultural development of the city, state or nation;

b. Is associated with an important historical event;

c. Is associated with an important individual or group who contributed in a significant way to the political, social and/or cultural life of the community.

(2) Architectural significance. The property:

a. Characterizes an architectural style associated with a particular era and/or ethnic group;

b. Is identified with a particular architect, master builder or craftsman;

c. Is architecturally unique or innovative;

d. Has a strong or unique relationship to other areas potentially eligible for preservation because of architectural significance;

e. Has visual symbolic meaning or appeal for the community.

(3) Geographic significance. The property:

a. Has proximity to a square, park or unique area deserving of preservation;

b. Is a visual feature identifying an area or neighborhood or consists of utilitarian and commercial structures historically and geographically associated with an area.

(b) A district shall be designated if the historic preservation commission determines and recommends to the city council, pending approval, that the proposed district meets the definition of an historic district pursuant to section 22-639 and meets two or more of the following criteria:

(1) Is an area which exemplifies or reflects the particular cultural, political, economic or social history of the community;

(2) Is an area identified with historical personages or groups or which represents important events in national, state or local history;

(3) Is an area which embodies distinguishing characteristics of an architectural type or style inherently valuable for the study of a period, method of construction or of indigenous materials of craftsmanship;

(4) Is an area which, due to its unique location or singular characteristics, represents established and familiar visual features of the neighborhood, community or city; or

(5) Is an area which is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized.

(c) A property or district may only be nominated once a year, unless such nomination is uncontested.

(Code 1994, § 16.60.060; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-643. Procedure for nomination of historic properties and districts.

(a) Nomination procedures.

(1) *Owner nominations*. Any owner may nominate his property, area or structure for designation on the city's historic register.

(2) *District nominations*. Two or more individuals may nominate a district within which they own property by attaching a petition with signatures of property owners within the district showing support of the nomination. Support of the nomination for an historic district requires:

a. A signed showing of support of no less than 20 signatures or 20 percent of the number of properties or lots within the proposed area, whichever is less.

b. Each property or lot is only able to sign once. Properties held in any type of joint ownership do not get split votes.

c. The petition shall be considered final for the purposes of accounting the 20 percent at the time of submission.

(3) *Nonowner nominations*. The planning commission, Greeley Urban Renewal Authority, downtown

development authority or any preservation organization, including nonprofit historic preservation groups, may nominate a property, district, area or structure for designation subject to all the rules and procedures of this entire chapter. Nonowner individual nominations are to be reviewed under stricter protections and must meet the following criteria of overwhelming historic importance to the entire community:

a. Possessing such unusual or uncommon significance that the structure's potential demolition or major alteration would diminish the character and sense of place in the community of the city; or

b. Possessing superior or outstanding examples of architecture, social or geographic historic significance criteria outlined in the criteria for designation in section 22-642. The term "superior" means excellence of its kind, and the term "outstanding" means marked by eminence and distinction.

Persons or organizations wishing to initiate a nomination should contact the historic preservation specialist for written policies and procedures for nomination.

(b) Nomination by survey. Designation may be on the basis of a survey subject to all the rules and procedures of this entire chapter. The commission is authorized by this chapter to order a community survey. The list of sites contained in this survey shall be maintained, reviewed and updated annually by the commission.

(c) A property or structure may be nominated as part of the commission's preservation plan.

(d) Moratorium. For a potential historic property or district which had been nominated but not yet designated, legal protection for the nominated property shall be afforded for 120 days until its status is determined. Permits to alter or remodel the exterior of a property or to build, relocate or raze shall not be issued during that 120-day period, except by written exemption by the commission under the following criteria:

(1) As necessary by law under federal, state or city ordinance;

(2) When deemed to be an emergency;

(3) Due to unreasonable economic hardship; or

(4) Due to improper nomination.

Owners requesting such exemption may seek an immediate hearing before the commission by filing a request for an immediate hearing with the historic preservation specialist. If at such hearing the commission votes by a two-thirds 2/3 majority vote that the property is eligible for exemption, the moratorium or nomination shall be dropped in the entirety or with specific exclusions for that specific property.

(e) District designation plan required. In addition to subsections (a) through (d) of this section, owners of properties being nominated as part of a district must develop a district designation plan. Requirements under this plan will be drafted by the applicant and staff and approved by the commission at the designation hearing pending approval by the city council.

(f) Neighborhood meeting required. If the nomination is for designation of an historic district, then a neighborhood meeting shall be held and all owners of property within the proposed district boundaries will be notified by mail of the time, date and location.

(g) Historic district owner vote required. After the neighborhood meeting occurs but prior to the commission's designation hearing, a vote by property owners of the nominated district shall be cast. The vote shall be done through the mail, and only one ballot per property can be voted upon as sent by the city clerk's office which must be returned by the date specified on the ballot. Such ballots shall be sent by certified mail, return receipt, but voters may return their vote card either in person or by mail. Greater than 50 percent of returned votes must be in favor of historical designation or the nomination fails.

(Code 1994, § 16.60.070; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-644. Procedure for designation of historic properties and districts.

(a) *Notice and time requirements.*

(1) All owners of a nominated property shall receive notice from the commission by certified mail, return receipt, but the city shall receive notice by hand delivery for the nomination of city-owned property. Such notice shall reference the privileges, obligations and restrictions which apply to historic properties.

(2) The commission shall call for a public hearing, after which the decision to designate shall be put to the commission. The designation resolution must be passed by a two-thirds majority vote of the commission, and the notice of designation resolution must include a detailed description of the property and reasons for nomination. Within 30 days of the commission's recommendation for designation, the city council shall hold a hearing whether to approve, modify or deny the designation for historic districts or nonowner individual nominations under section 22-648.

(3) All owners shall be given written notice at their last-known address of the time, place and date of the hearing. Such notice shall be given no less than 15 days prior to the scheduled hearing. The notice shall also be published in a newspaper of local circulation once a week for two weeks prior to the hearing.

A notice of hearing for designation of property shall be mailed or delivered with a certificate of mailing or a certificate of delivery filled out. Notice shall also be posted, at the property, in a manner clearly visible from a public right-of-way. In the case of nominations for an historic district, postings shall occur in the district in a manner clearly visible from public rights-of-way. The commission shall create administrative rules regarding the procedure for the number and placing of posting notices, a copy of which shall be held by the historic preservation specialist.

(b) *The hearing*.

(1) *Quorum required*. At least five members must be present at a hearing in order to establish a quorum. If a quorum is missing due to attendance, then the chairperson of the commission may set a new date for a special hearing, or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date. If a quorum is missing due to conflicts of interest, then the process in section 22-646 shall be used.

(2) *The hearing*. The hearing shall be electronically recorded and minutes prepared. Hearings shall be of ample length to allow all concerned persons to address the commission.

(c) *Approval by the commission*. Approval shall be granted after the commission has heard all interested parties and relevant evidence if the commission votes in favor of historic designation by a two-thirds majority of the quorum present for owner-nominated property. At least five commissioners must vote in favor of historic designation for approval of non-owner-nominated property or historic districts, subject to approval by the city council under section 22-648. If the owner disagrees with the decision of the commission, the owner may appeal the decision pursuant to section 22-657.

(d) *Recording the designation after approval*.

(1) Recording of the designation with the county clerk and recorder for:

a. Owner-nominated properties must take place within five days after the 30-day appeal delay pursuant to section 22-657 if no appeal is filed, or within five days after a final city council decision.

b. Non-owner-nominated or historic districts must take place 35 days after approval by the city council pursuant to section 22-648.

Recording fees shall be paid by the nominating party.

(2) Within 15 days after recording of the historic designation, the commission shall send a registered notice to the owner outlining reasons for designation.

(e) *Signage of designated property*. The commission shall supply and pay for uniform signs for designated properties subject to availability of funds. Such signs shall conform to city ordinances governing other signs in the city.

(Code 1994, § 16.60.080; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-645. Procedure for modification of district designation plans.

District designation plans may be modified by property owners within the district. The procedure to modify a district designation plan shall follow the same rules and procedures as outlined in sections 22-643 and 22-644, except no moratorium shall be placed upon the district.

(Code 1994, § 16.60.081; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-646. Use of alternates in designations.

(a) In cases where a conflict of interest arises to the attention of the commission during the designation of an historic property or district, use of alternates is permissible to replace conflicted members. Alternates shall be selected from a pool of former historic preservation commission members who would meet the minimum city board and commission standards necessary, except for term limits, at the time of the appointment and the vote. Best efforts will be made to replace any and all conflicted members, but if a quorum of five is attainable, the designation hearing may proceed.

(b) A pool of alternates shall be appointed by the city council. The total number of potential alternates shall be between two and 12 people. The selection of the alternates to fill the role of any conflicted commission members shall be at random. The historic preservation specialist shall draw names through some random process, e.g., draw names from a hat. The selection shall be done during a special session or meeting of the commission where public notice has been given. The selection shall be done prior to the actual historic designation hearing to allow the alternates a chance to review any changes to this Code or procedures.

(c) The alternate may only act upon the matter for which a commission member has a conflict.

(d) If a quorum is unattainable through the use of alternates in designations as provided for in this section, then the historic designation hearing will be directly heard before the city council by a special hearing for a designation vote, using the same guidelines as mandated by the commission under this chapter, except that such city council vote shall be carried by a simple majority of the quorum present.

(Code 1994, § 16.60.082; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-647. Illustrative flow chart.

A process flow chart for illustrative purposes only has been added as section 22-697.

(Code 1994, § 16.60.083; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-648. Approval of commission's decision by city council.

(a) All recommendations for designation made by the commission regarding historic designation of districts or non-owner-nominated properties or modification of district designation plans must be submitted to the city council, through the city clerk's office, for approval. Notification of the public meeting regarding approval of historic designation shall be given by posting signage around the historical district boundaries and publishing a notice in the newspaper.

(b) Upon presentation of a district designation plan to the city council that has additional terms and conditions not stated or is in conflict with this chapter, the city council is hereby granted the authority, in its sole discretion, to approve the district designation plan with these terms and conditions, notwithstanding any of the limiting terms and conditions stated in this chapter unless doing so would negatively affect the city's certification standing regarding historic preservation.

(c) The city council shall take action within 30 days of the commission's decision. This decision is deemed a final action by the city.

(Code 1994, § 16.60.085; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-649. Economic incentives for historic restoration and/or rehabilitation.

(a) An owner of a property that has been designated as historic or an owner of a contributing property in an historic district may apply for the following economic incentives for the restoration or rehabilitation of that property and such additional incentives as may be developed by the commission pursuant to its rules and regulations:

(1) Matching funds for streetscaping on designated property.

(2) Refund of city building permit fees for interior and exterior restoration, preservation and rehabilitation. The commission shall develop a format for establishing projected costs, rules of the restoration, preservation or rehabilitation in order that such refund of fees is equitable.

(3) The low-interest loan pool created by the city pursuant to chapter 18 of this title.

(4) Applicable state and federal income tax credits.

(b) The commission shall attempt to identify and implement other economic incentives for historic properties. The commission shall notify the owners of historic properties of economic incentive opportunities available.

(c) The commission shall make the determination for each request regarding economic incentives.

(Code 1994, § 16.60.090; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-650. Special duties, privileges and obligations.

(a) Owners of designated properties shall be eligible to apply for those economic incentives as contained within this chapter and/or established and developed by the commission pursuant to its rules and regulations.

(b) Owners intending to reconstruct, improve, demolish or in any way significantly alter or change a designated property, or a property in an historic district, must first submit their plan for review to the appropriate city departments as to compliance with all city codes and ordinances.

(c) After consultation with the city's development departments, the owner shall submit a plan for review by the commission, and the commission shall grant a certificate of approval to properties that the commission feels can be altered without diminishing the historic character of the property or district.

(d) If a certificate of approval is granted by the commission, the applicant must obtain all necessary permits required by the city ordinances.

(e) Maintenance shall be required by the owner of a designated property and owners of properties in an historic district. The term "maintenance" means that owners:

(1) Shall not permit a structure to deteriorate so badly as to produce a detrimental effect on a designated property; and

(2) Shall reasonably maintain the surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures and landscaping.

(Code 1994, § 16.60.100; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-651. Criteria and standards for altering designated properties or contributing properties in a district.

The criteria and standards for alterations to a designated property or a property in an historic district are determined as follows:

(1) *Criteria*.

a. The effect of the alteration or construction upon the general historical or architectural character of the designated property.

b. The architectural style, arrangement, texture and materials of existing and proposed construction, and their relationship to the other buildings.

c. The effects of the proposed work in creating, changing or destroying the exterior architectural features and details of the structure upon which the work shall be done.

d. The compatibility of accessory structures and fences with the main structure on the site and with adjoining structures.

e. The effect of the proposed work upon the protection, enhancement, perpetuation and use of the

landmark or landmark district.

f. Compliance with the Secretary of the Interior's current standards for rehabilitation of historic properties, as defined in section 22-639.

(2) *Standards.*

a. Attempts shall be made to use the property in a manner consistent with its original use or a compatible purpose, so long as such use does not violate any current city ordinances.

b. The historic character of the property shall be retained by avoiding the removal of, or alteration of, features and spaces important to the character.

c. Each property shall be recognized as a physical record of its time. The use of original materials shall be encouraged. Distinctive and unique features, finishes, materials and examples of craftsmanship should be retained and preserved. If deteriorated, they should be repaired. Repairs and replacement of such features should match the original in color, shape, texture and design. Replacements should be fully documented with pictorial or physical evidence and a copy of such evidence filed with the commission.

d. Most properties change over time. Some of those changes acquire their own historical or architectural significance and should be retained. The commission shall decide what changes are of historic importance and subject to this chapter.

e. New additions and expansions shall, where possible, be differentiated from the existing building to protect its historic integrity. New additions and constructions shall also be undertaken in such a manner that their removal in the future would not destroy the form or integrity of the original property.

f. If property is a noncontributing property in an historic district, then alterations will be in accordance with the district designation plan as approved by the commission and the approval by city council.

g. Other requirements for alterations of a designated property or contributing property in a district as are required by the procedures and bylaws established by the commission.

(Code 1994, § 16.60.110; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-652. Criteria for relocation of a designated property or contributing properties in a district.

In all cases it shall be the preference of the commission to keep structures at their original sites. The commission shall consider the following criteria in addition to those described for alterations:

(1) *Original site.*

a. Documentation showing the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property.

b. The significance of the structure as it relates to its present setting.

c. When a governmental entity exercises power of eminent domain, the commission should first consider relocating before demolishing.

d. Whether the structure can be moved without significant damage to its physical integrity and the applicant can show the relocation activity is the best preservation method for the character and integrity of the structure.

e. Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and resiting.

f. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.

(2) *New location.*

a. Whether the building or structure is compatible with its proposed site and adjacent properties and

if the receiving site is compatible in nature with the structure or structures proposed to be moved.

b. Whether the structure's architectural integrity and its consistency are with the character of the neighborhood.

c. Whether the relocation of the historic structure would diminish the integrity or character of the neighborhood of the receiving site.

d. Whether the proposed relocation is in compliance with all city ordinances.

(Code 1994, § 16.60.120; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-653. Criteria for demolition of a designated property or contributing properties in a district.

Permits for demolition shall be issued if the applicant can clearly demonstrate that the designated property meets the criteria for demolition as set forth under this chapter by balancing the criteria of subsections (1) through (4) of this section versus subsection (5) of this section. Not all of the criteria must be met for the commission to recommend demolition. Appeals of the decision shall be made under section 22-657.

(1) The structure must be demolished because it presents an imminent hazard.

(2) The structure proposed for demolition is not structurally sound despite evidence of the owner's efforts to properly maintain the structure.

(3) The structure cannot be rehabilitated or reused on-site to provide for any reasonable beneficial use of the property.

(4) The structure cannot be moved to another site because it is physically or economically impractical.

(5) The applicant demonstrates that the proposal mitigates to the greatest extent practical the following:

a. Significant impacts that negatively alter the visual character of the neighborhood where demolition is proposed to occur.

b. Significant impact on the historic importance of other structures located on the property and adjacent properties.

c. Significant impact to the architectural integrity of other structures located on the property and adjacent properties.

(6) If partial demolition is approved by the commission and is required for the renovation, restoration or rehabilitation of the structure, the owner should mitigate, to the greatest extent possible:

a. Impacts on the historic importance of the structure or structures located on the property.

b. Impacts on the architectural integrity of the structure or structures located on the property.

(Code 1994, § 16.60.130; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-654. Action of commission upon recommendation to deny permit.

(a) If the proposed permit to alter, relocate or demolish is denied, the commission, acting with all due diligence, shall explore with the applicant available means for substantially preserving the designated property which was affected by the determination. These investigations may include, by way of example and not of limitation:

(1) Feasibility of modification of the plans.

(2) Feasibility of any alternative use of the structures which would substantially preserve the original character.

(b) If the commission is unsuccessful in developing either alternate plans or an appropriate public or private use for such structure, which are acceptable to the applicant, it shall notify the owner and the building inspection division in writing. If the owner and the commission cannot reach a compromise, then the appeal may be filed pursuant to section 22-657.

(Code 1994, § 16.60.140; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-655. Removal of property from historic register or exemption.

(a) In the event a property or district has been designated as historic under this chapter, the city council may remove such property if the city council finds that the property owner has shown that historic designation creates undue hardship in accordance with the criteria in this section.

(b) Also, if the request to the commission for a certificate of approval does not conform to the applicable criteria, an applicant may request an exemption from the certificate requirements, provided that the intent and purpose of this chapter are not significantly eroded and, provided that adequate documentation is submitted to the commission either in writing or by testimony to establish qualification for one of the following exemptions. Such documentation or testimony must be substantiated by professional opinion or thorough explanation of how the information was obtained.

(1) *Economic hardship exemption.* An economic hardship exemption may be granted if:

a. The owner is unable to obtain a reasonable return on investment in the property's present condition or in a rehabilitated condition.

b. For non-income-producing properties the owner's inability to resell the property in its current condition or if rehabilitated.

c. The economic hardship claimed is not self-imposed.

(2) *Health/safety hardship.* To qualify for undue hardship, the applicant must demonstrate that the application of criteria creates a situation substantially inadequate to meet the applicant's needs because of health and/or safety considerations.

(3) *Inability to use.*

a. If no sale can be made or no feasible use found for the structure within two years of denial of a permit, the owner may request a waiver of all or part of the process described above.

b. In determining the applicability of this section, the commission shall include the following factors in its deliberations:

1. Written documented evidence illustrating efforts by the owner to make repairs, find an appropriate use or sell the property.

2. Written evidence of the owner's efforts to secure assistance for conforming the application with this chapter without demolition or defacement.

(c) For the purpose of establishing and maintaining sound, stable and desirable historical districts within the city, the removal of historical designation is to be discouraged. This policy is based on the opinion of the city council that the city's historical districts are the result of a detailed and comprehensive appraisal of the city's present and future needs regarding land use allocation and other considerations while supporting the city's historical significance and, as such, should not be amended unless to correct manifest errors or because of changed or changing conditions in a particular area of the city in general.

(Code 1994, § 16.60.150; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-656. Fines and penalties for violation of chapter provisions; failure to comply with district designation plan.

Failure to comply with requirements of a district designation plan shall be a violation punishable in accordance with this section. Whenever any work is being done contrary to the provisions of this chapter or any plan adopted by the commission or approved by city council, a code enforcement officer or other authorized city official may issue a stop-work order by notice in writing, served in person or by certified mail on the owner or any persons engaged in the performance of such work, until authorized by the code enforcement officer, city official or commission to proceed with the work. This order of cessation of work is in addition to any other penalties or remedies allowed by this Code. The maximum penalty for violation of this chapter shall be the same as for violation

of any other city ordinances as found in this Code at sections 1-229 and 1-230.

(Code 1994, § 16.60.160; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

Sec. 22-657. Appeal of decisions.

Decisions of the commission are reviewable by the city council. The findings and determinations of the commission may be reviewed, modified, affirmed or reversed by a simple majority vote of the elected members of the city council. Appeals are filed by presenting to the city clerk a written notice of appeal within 30 days after the determination has been made and entered upon the records of the commission. Determinations issued by the city council shall constitute final agency action.

(Code 1994, § 16.60.170; Ord. No. 33, 1995, § 1(part), 8-15-1995; Ord. No. 27, 1999, § 1(part), 6-15-1999; Ord. No. 14, 2000, § 1(part), 5-2-2000; Ord. No. 29, 2002, § 1, 5-7-2002; Ord. No. 34, 2006, § 1, 8-15-2006)

~~**Sec. 16.60.180 Severability clause.**~~

~~If any provision of this chapter or any provision of any rule or regulation lawfully promulgated hereunder or any application of this chapter or rule or regulation promulgated hereunder to any person or circumstance is held invalid or inoperative, such invalidity or inoperativeness shall not affect other provisions or applications of this chapter or rules or regulations. The city council hereby declares that in these regards the provisions of this Code and all rules and regulations promulgated hereunder are severable. In the event that any part of this chapter negatively affects the city's certified status as a certified local government by the National Park Service, then the conflicting provision shall be severable.~~

~~(Code 1994, § 16.60.180; Ord. No. 34, 2006, § 1, 8-15-2006)~~

Sec. 22-658. Permit review by historic preservation specialist for undesignated properties outside of an historic district.

(a) When application for a permit is made with the city to significantly alter the streetscape view of the exterior of or move or demolish any structure or building that is 40 years or older, the application shall be forwarded and reviewed by the historic preservation specialist or designee.

(1) The term "significant alterations" shall be defined as follows:

a. Siding--including new stucco applied over original or existing wood, existing siding metal or brick.

b. Fenestration--window openings enlarged or reduced.

c. Roof--changes of roofline or structure.

d. Porches--changes to original porch visible from streetscape.

e. Any building modification as viewed from any public street.

(2) The historic preservation specialist or designee shall have ten working days to review and comment on applications that meet the criteria set forth above. The ten working days shall commence on the day the permit application is submitted to building inspection. Should ten working days expire without written comment from the historic preservation specialist or designee, then those parties shall not be allowed to comment on the permit.

a. The historic preservation specialist or designee shall research the historic significance of the building for which a permit has been applied.

b. If the historic preservation specialist or designee determines that a building currently holds no historic significance, then such a notice shall be placed with the permit that will be issued through the building inspection office.

c. If the historic preservation specialist or designee determines that potential significance exists, the historic preservation specialist or designee shall make the information available to the groups named in subsection 22-643(a)(3).

d. The historic preservation specialist or designee shall issue comments and/or suggestions to the

building inspection office. These comments shall recognize the historical significance or lack thereof concerning the building for which a permit has been requested. The historic preservation specialist may also make suggestions of ways to make the changes more compatible or acceptable with the age or type of structure.

(3) Nonsignificant alterations shall be excluded from review by the historic preservation specialist or designee. The term "nonsignificant alterations" shall be defined as follows:

a. Siding--vinyl or metal over original.

b. Fenestration--replacement of windows in original openings.

c. Roof--new shingles or deck without changing original roofline.

d. Porches--additions of back porches or decks.

e. Additions--not visible from the street (less than 50 percent of original structure).

f. Doors.

g. Landscaping.

h. Accessory structures.

i. Signs.

(4) Whenever an application for development includes alterations or demolition described in this section and is required to go through the planning department, the planning department will use its best efforts to inform the applicant of the ramifications that this section will have on the application.

(b) If a building must be demolished because it poses a threat to the health, safety or welfare of the citizens of the city, this section shall not apply.

(Code 1994, § 16.60.200; Ord. No. 55, 2004, §§ 2, 3, 10-5-2004; Ord. No. 34, 2006, § 1, 8-15-2006)

Secs. 22-659--22-689. Reserved.

CHAPTER 18. HISTORIC PRESERVATION LOW INTEREST LOAN PROGRAM

Sec. 22-690. Statement of purpose.

(a) To promote and support the maintenance of historic properties by providing a pool of available funds which will be loaned at low rates of interest for the maintenance and improvement of properties designated as historic by the city;

(b) Foster civic pride in the accomplishments and heritage contained in the city's past as exhibited in the city's architecture, homes and public/private buildings;

(c) Enhance the physical attractiveness of the city;

(d) Promote the recycling and adaptive reuse of architectural sites, structures, objects and districts for the education, stimulation and welfare of the people of the city;

(e) Promote the economic revitalization of the city.

(Code 1994, § 16.61.010; Ord. No. 59, 1997, §§ 1, 2, 9-16-1997; Ord. No. 48, 2001, § 2, 7-17-2001; Ord. No. 78, 2001, § 2, 10-2-2001)

Sec. 22-691. Creation of committee.

(a) The loan committee shall consist of seven voting members as appointed by the historic preservation commission, four of which shall be from its membership, and the following three city employees or their designee: director of community development, historic preservation specialist and finance director.

(b) The loan committee shall have the following ex officio members: a member of the city attorney's office shall be the legal advisor; a representative of the city finance department; and one member of the city council.

(c) Appointment of the loan committee members shall be for a maximum of three-year terms. The initial

terms will be staggered as established by the historic preservation commission.

(d) Vacancies on the loan committee shall be filled by the historic preservation commission.

(e) Members of the loan committee whose term of office expires may apply for reappointment.

(f) Members of the loan committee wishing to resign prior to completion of the appointment term shall inform the historic preservation commission in writing with a copy sent to the loan committee chairperson and the staff liaison.

(g) One city employee loan committee member shall be appointed by the city manager as an administrator to be referred to hereafter as staff liaison.

(Code 1994, § 16.61.020; Ord. No. 59, 1997, §§ 1, 2, 9-16-1997; Ord. No. 48, 2001, § 2, 7-17-2001; Ord. No. 78, 2001, § 2, 10-2-2001; Ord. No. 04, 2008, § 4, 2-5-2008)

Sec. 22-692. Rules of procedure.

The committee shall conduct its proceedings in accordance with Robert's Rules of Order and set forth additional rules and procedures for the commission.

(Code 1994, § 16.61.030; Ord. No. 59, 1997, §§ 1, 2, 9-16-1997; Ord. No. 48, 2001, § 2, 7-17-2001; Ord. No. 78, 2001, § 2, 10-2-2001; Ord. No. 04, 2008, § 4, 2-5-2008)

Sec. 22-693. Powers and duties of committee.

(a) The committee shall have the power to:

(1) Establish loan criteria to be approved by council resolution;

(2) Receive and review applications for credit;

(3) Approve or deny applications for loans;

(4) Conduct inspections;

(5) Supervise and administer an historic preservation loan program between/among the city and the owners of designated properties, including those designated on the state register or the National Register of Historic Places.

(b) The committee shall have the duty to:

(1) Conduct itself in a professional manner, holding all financial information and other sensitive information in strict confidence;

(2) Make all loan decisions with consideration for the future and stability of the loan pool.

(Code 1994, § 16.61.040; Ord. No. 59, 1997, §§ 1, 2, 9-16-1997; Ord. No. 48, 2001, § 2, 7-17-2001; Ord. No. 78, 2001, § 2, 10-2-2001)

Sec. 22-694. Procedure for loan application.

(a) Any owner of an eligible property may submit an application for consideration by the historic preservation loan committee. As part of the application process, the owner shall also submit a detailed description of the owner's plan for the historic preservation and protection of the subject property.

(b) The property owner shall submit itemized brands and materials list.

(c) Owner shall also submit financial statements for all persons applying for historic preservation loans as may be requested by the loan committee.

(d) The loan committee reserves the right to request such additional information as it determines necessary relative to ownership, financial considerations, plans, contractor information and/or other information the loan committee determines pertinent.

(Code 1994, § 16.61.050; Ord. No. 59, 1997, §§ 1, 2, 9-16-1997; Ord. No. 48, 2001, § 2, 7-17-2001; Ord. No. 78, 2001, § 2, 10-2-2001; Ord. No. 04, 2008, § 4, 2-5-2008)

Sec. 22-695. Criteria for approval or denial.

(a) Applications for participation in the historic preservation loan program shall be in the names of all owners of title. Application in the names of less than all owners shall not be permitted.

(b) Ownership and title to the property, which will be the subject of the historic preservation loan, must be in good or marketable title with all taxes and loans current, liens paid, no foreclosure proceedings pending, all restrictions of record and encumbrances disclosed and approved by the loan committee, and be in compliance with all zoning codes.

(c) Owner will provide such documents and proof of title, including encumbrances, liens, restrictions of record, or other evidence of the title to the property as the loan committee may request; owner agrees to pay for all ownership and encumbrance reports, title insurance, title searches and other fees as the loan committee may deem necessary or appropriate. All such costs must be paid by the owner at the commencement of the loan application process.

(d) The loan committee shall apply such loan repayment criteria to each historic preservation loan application as the loan committee determines is appropriate.

(e) The loan committee shall, after consultation with the applicants, determine an appropriate loan repayment schedule which may be on a monthly basis, but in no event shall it be on less than a quarterly basis. Forty-five days after failure to make timely payment shall cause the entire principal balance, together with all accrued interest thereon, to become a lien upon the property, and shall have priority over all liens, except general taxes and prior special assessments and the same may be certified by the director of finance, together with all accrued interest thereon and a ten percent collection charge, to the county treasurer for collection as provided by law; provided, however, that at any time prior to sale of the property, the applicants may pay the amount of all delinquent installment payments, together with all accrued interest and the ten-percent collection charge thereon, and any other penalties and costs of collection. Upon such payment, applicants shall thereupon be restored to nondelinquent status and may thereafter pay in installments in the same manner as if default had not been made.

(Code 1994, § 16.61.060; Ord. No. 59, 1997, §§ 1, 2, 9-16-1997; Ord. No. 48, 2001, § 2, 7-17-2001; Ord. No. 78, 2001, § 2, 10-2-2001)

Sec. 22-696. Request for reconsideration.

A person who applies for money pursuant to this chapter and whose application is denied may reapply not more than once in any 12-month period. Decisions made by the committee are final.

(Code 1994, § 16.61.070; Ord. No. 59, 1997, §§ 1, 2, 9-16-1997; Ord. No. 48, 2001, § 2, 7-17-2001; Ord. No. 78, 2001, § 2, 10-2-2001)

Sec. 22-697. Chart for historic preservation designation process.

[GRAPHIC - Illustrative Flow Chart for Historic Preservation Designation Process]

(Code 1994, ch. 16.61, att.; Ord. No. 34, 2006, § 1, 8-15-2006)

Title 23

RESERVED

Title 24

DEVELOPMENT CODE

CHAPTER 1. GENERAL PROVISIONS

Sec. 24-1. Short title.

This title shall be known as the "Greeley Development Code" and may be referred to as "the Development Code."

(Code 1994, § 18.10.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-2. Purpose and intent.

It is the intent of this Development Code to exercise the legislative authority available to the city under the authority contained in the city Charter and the laws of the state. This Development Code has been established in accordance with, and for the purpose of implementing the policies of the city comprehensive plan for the following additional purposes:

(1) To promote the health, safety and general welfare of the citizens of the city;

(2) To implement the city's adopted goals, objectives and policies to facilitate the orderly growth and expansion of the city and phased development of public services and facilities;

(3) To classify and distribute land utilization and development in a way that will benefit the community and regulate the use of land on the basis of the impact on the community and surrounding areas;

(4) To achieve attractive and quality design of the built environment, especially along the city's principal thoroughfares, entryways and activity areas, through the use of innovation and creativity;

(5) To support new development and redevelopment projects that maintain the distinct character of the city's various areas or districts;

(6) To provide, in conjunction with other laws and regulations, for transportation, water, sanitary sewer treatment, storm drainage, utilities and other public requirements, and to promote the most efficient expenditure of public funds for such public facilities;

(7) To allow for the removal of minerals prior to development;

(8) To protect the natural environment and conserve environmentally sensitive lands by directing new development into areas with few natural or environmental constraints and mitigating adverse impacts when developing in such areas;

(9) To provide a variety of housing opportunities for all citizens; and

(10) To develop and maintain a multi-modal transportation network providing for the safe and efficient movement of people, goods and freight.

(Code 1994, § 18.10.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-3. Application.

(a) This chapter shall be effective throughout the city's area of jurisdiction, with the exception of land within General Improvement District No. 1, which shall be exempt from the requirements of article VI of chapter 8 of this title and chapter 11 of this title.

(b) The provisions of this chapter shall be adopted for the protection of the public health, safety and general welfare. The city does not assume responsibility for enforcing any private covenant, contract or deed restriction, or any county, state or federal law unless required by law.

(c) Except as otherwise provided, no building or other structure or land shall be used, and no building or other structure shall be erected, reconstructed, moved into or within the city limits, or structurally altered except in

conformance with the regulations herein specified for the district in which such building or land is located.

(d) The provisions of this Development Code shall not be retroactive in their application.

(e) The invalidity or unenforceability of any provision of this Development Code, as determined by a court of competent jurisdiction, shall not affect the validity of the remainder of this Development Code or any other provisions hereof.

(f) Permits and/or approvals granted under the provisions of this chapter may be revoked if all stipulations which were required with such permits or approvals are not met.

(g) After the denial of any land use application required by this Development Code, no application for the same or substantially similar request shall be made for 12 consecutive months immediately following the denial, except for permitted uses and design review uses.

(h) Neither the adoption of this Development Code, nor the rezoning of land under the ordinance codified at this title shall have the effect of impairing, canceling or otherwise affecting any legal land use conditions, limitations, rights or privileges existing as of the date of the ordinance codified in this title by reason of conditional zoning, planned unit developments, contracts or private covenants which were adopted or established prior to the date of the ordinance codified in this title except for animal confinement uses, as provided in section 24-1431. If any such limitations, conditions, rights or privileges with respect to a particular parcel of land are executory as of the date of the ordinance codified in this title and if, in the judgment of the city council, the implementation of such limitations, conditions, rights and privileges can best be effected by rezoning, then the council shall initiate a rezoning pursuant to section 24-625.

(i) Variances granted prior to the adoption of this Development Code and which have been exercised and continue to be utilized shall not be affected by the adoption of this Development Code. Three years from the effective date of the ordinance from which this title is derived, the zoning board of appeals may conduct annual hearings on previously approved variances which have never been undertaken or are not currently used to determine whether such variances have been abandoned by their property owners or whether to permit continuation of the original variance approval. Notice shall be provided to the property owners of such variances prior to the zoning board of appeals hearing as provided in article II of chapter 5 of this title.

(j) The city Charter is the source of zoning authority independent of state legislative enactment. This title, unless it expressly provides otherwise, supersedes new state legislation contrary or inconsistent with this title. This title also supersedes any state legislative enactments which are, by their terms, subject to being superseded by adopted home rule city Charters or ordinances.

(k) All applicants expressly grant access to enter property for the purposes of inspection and compliance by city representatives, provided that such inspections occur at reasonable times and in a reasonable manner.

(l) Land use, development or construction applications for building permits, uses by special review, subdivisions or planned unit developments, which are commenced prior to the effective date of the ordinance codified in this Development Code (June 1, 1998), shall be permitted to be submitted under the provisions of either the Zoning Code of 1976 or this Development Code. For the purposes of this section, the term "commenced" means that a complete application has been submitted and determined by the community development director to be complete prior to the effective date of this title. In no event shall any application commenced before the effective date of the ordinance from which this Development Code is derived be permitted to continue under the provisions of the Zoning Code of 1976 for more than one year after the effective date of the ordinance from which this Development Code is derived. Applications submitted for approval following the effective date of the 2002 amendments must comply with all aspects of this title as amended, with the following exceptions:

(1) Properties zoned C-H Commercial High Intensity prior to the effective date of the 2002 amendments shall not be required to obtain use by special review approval as is otherwise required under the 2002 title amendments, provided that such use is commenced within three years of the effective date of the amendments.

(2) Residential subdivisions for which a final plat application has been submitted, meeting the provisions of chapter 4 of this title, by the effective date of the title amendments and which have been determined by the community development director to be complete may proceed to be developed under the provisions

of this Development Code, provided that such development is substantially commenced within three years of the date of city approval.

(3) Any structure for which a certificate of occupancy has been issued shall be required to meet all conditions of this title for any further building or site modifications.

(m) Maps adopted in accordance with this Development Code shall be reviewed and amended on an annual basis by the city. For the purposes of this Development Code, the most recently adopted map shall be the map in force.

(n) All land use and development applications shall be in compliance with all other adopted codes and ordinances of the city.

(o) No use shall cause or produce objectionable effects which would impose a hazard or nuisance to adjacent or other properties by reason of smoke, soot, dust, radiation, odor, noise, vibration, heat, glare, toxic fumes or other conditions that would adversely affect the public health, safety and general welfare.

(Code 1994, § 18.10.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-4. Fees.

The fee for land use applications shall be set administratively by the city manager or designee. Such fee schedule shall be maintained by the planning department and the city clerk's office for public inspection. In addition to setting the fees, the city manager, or city manager's designee, is hereby authorized to promulgate all necessary rules and regulations to manage and administer the application, calculation and collection of those fees. Such rules and regulations shall be written and available for inspection in both the city clerk and planning department offices. These fees are in addition to and not in lieu of any other fee created elsewhere in this title.

(Code 1994, § 18.10.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

~~Chapter 18.12 Interpretations~~

~~**Sec. 18.12.010 Purpose and intent.**~~

~~The purpose of this chapter is to establish general rules of interpretation for this Code.~~

~~(Code 1994, § 18.12.010; Ord. 65, 2002 §1; Ord. 27, 1998 §1)~~

~~**Sec. 18.12.020 Interpretations.**~~

~~Unless the context clearly indicates otherwise, the following rules shall apply in interpreting this Code:~~

~~— The particular controls the general.~~

~~— The term *shall* is always mandatory and the term *may* is permissive.~~

~~— Words used in the present tense include the future.~~

~~— Words used in the singular include the plural and words used in the plural include the singular.~~

~~— Words importing gender include the feminine, masculine and neuter.~~

~~— A *building or other structure* includes all other structures of every kind, regardless of similarity to buildings.~~

~~— The phrase used for includes arranged for, designed for, intended for, maintained for and occupied for.~~

~~— A *person* shall include any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user or owner or any representative, officer or employee thereof.~~

~~— Words and phrases used in this Code which are not specifically defined shall be assigned their ordinary meanings.~~

~~(Code 1994, § 18.12.020; Ord. 65, 2002 §1; Ord. 27, 1998 §1)~~

Sec. 24-5. Definitions.

~~A complete list of the definitions of this title is included in Appendix 18-B. Definitions specific to each chapter herein are included in each chapter.~~

~~Exhibit B~~

~~APPENDIX 18-B - Definitions~~

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

100-year flood means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (one-percent-annual-chance flood). The terms "one-hundred-year flood" and "one-percent-chance flood" are synonymous with the term "100-year flood."

100-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a 100-year flood.

500-year flood means a flood having a recurrence interval that has a two-tenths-percent chance of being equaled or exceeded during any given year (two-tenths-percent-chance-annual flood).

Abandoned sign means:

(1) A sign or sign structure and components, for which no legal owner can be found; and/or

(2) A sign and structure which are used to identify or advertise a business, tenant, owner, product, service, use, event or activity that has not been located on the premises for a period of 90 consecutive days or longer.

Accessory building or structure means a detached building or structure located upon the same lot as the principal building or structure to which it is related, which is incidental to and customarily found in connection with such principal building or structure and which is not to be used for human habitation.

Accessory use means a use customarily incidental, related and subordinate to the main use of the lot, building or structure which does not alter the principal use.

Act, as used in chapter 18 of this title, means the Oil and Gas Conservation Act of the State of Colorado.

Addition means an extension to an existing structure after completion of the original structure. For the purposes of this title, such additions and the point of attachment thereof shall be habitable space as defined in the uniform building code, as may be amended from time to time, and the dimension of the point of attachment shall constitute a minimum of 20 percent of the circumference of the exterior walls of the addition.

Address sign means signs that give the address or name of a building or residence without reference to, or inclusion of, the name or logo of a product sold, or service performed on the lot or in a building or structure, or name of the business enterprise occupying the property.

Adjacent means land which shares a boundary line with the lot in question or which would share a boundary line if not for the separation caused by a street, alley, sidewalk, railroad right-of-way, utility line, trail or irrigation ditch.

Adjacent uphill lot means an adjacent lot, whether or not separated by streets, easements or the like, which has an average ground level higher than the average ground level of the subject lot.

Administrative official means an individual appointed by the city manager to administer and enforce the provisions of this title.

Administrative review team (ART) means the city staff review team consisting of representatives of city departments involved with development and land use activities within the city and its long-range planning areas.

Adult business means any store, establishment, tavern, club or theater having a substantial portion of its stock in trade, books, magazines or other periodicals; video movies, films, slides or photographs; instruments, devices or paraphernalia; or live performances, which are characterized by their emphasis on matters depicting, describing, or

related to specified anatomical areas or specified sexual activities. For the purposes of this definition, a business shall not be considered an adult business if it carries less than 20 percent of its stock in adult materials and it prevents the public from viewing or observing merchandise or products that depict specified anatomical areas or specific sexual activities, as may be displayed by the products or on the packaging.

(1) *Specified anatomical areas* means:

a. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast above or below a point which would expose any portion of the areola; and

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(2) *Specified sexual activities* means:

a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;

b. Human genitals in a state of sexual stimulation or arousal;

c. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;

d. Masturbation, actual or simulated; or

e. Excretory functions as part of or in connection with any of the activities set forth in subsections (2)a through d of this definition.

Advertise means to attract attention to a business, product, service, use or event with a sign, display item or other device, such as flags, pennants, air driver devices and lights.

Airport means the Greeley-Weld County Airport, located in sections 2 and 3 and sections 26 and 35, T5N, R65W of the 6th P.M., Weld County, Colorado.

Airport elevation means the established elevation of the highest point on the usable landing area (4,690 feet above sea level).

Airport reference point means the point established as the geographic center of the airport landing area. The reference point at Greeley-Weld County Airport is a point which geographical coordinates are latitude 40 degrees, 26 minutes, eight seconds north and longitude 104 degrees, 37 minutes, 55 seconds west.

Alley means a minor way used primarily for vehicular access to the back of properties adjacent to a street and which is not intended to be used for primary access to a property. An alley shall not be considered a street.

Alteration means any act or process requiring a building permit, moving permit, demolition permit or sign permit for the reconstruction, moving, improvement or demolition of any designated property or district; or any other action in which a review by either the historic preservation commission or the city's historic preservation specialist is necessary under this article and/or the district designation plan and in accordance with the definitions of major and minor alterations, for the purposes of this article.

Amortization means the prohibition and removal of a nonconforming use after the expiration of a reasonable period of time.

Amortization period means a reasonable period of time to recoup a return on the investment in an animal confinement use, but which in no event shall exceed nine years from the effective date of the ordinance codified in this Development Code, or from the date the use became nonconforming, whichever is later.

Animal confinement use means a place for confinement of livestock for the purposes of commercial food production, where feeding of the livestock is other than grazing and where the capacity at any one time is greater than permitted on the animal equivalency chart for the zoning district in which it is located. Such animal confinement uses may include dairies, feedlots, poultry and swine production facilities.

Animal unit means a unit of measurement used to determine the animal capacity of a particular site or parcel of land and to establish an equivalency for various species of livestock. The animal unit capacity is determined by multiplying the number of animals of each species by the appropriate equivalency factor from the animal unit equivalency chart in section 24-1267 and summing the resulting totals for all animal species contained on a site or parcel of land. The number of animals allowed per acre on a site or parcel of land is based on area requirements for

each species, and the resulting acreages are also summed. If the maximum number of permitted animal units as provided on the animal unit equivalency chart is exceeded for a property that does not contain an animal confinement use as of the effective date of the ordinance codified in this Development Code, the property and use contained on said property shall be determined to be a nonconforming use and subject to the provisions in chapter 19 of this title.

Animated sign (see *Flashing or animated* or *Imitating sign*).

Antenna means a device used to transmit and/or receive radio, television or any other transmitted signal and which may be rooftop, wall or ground-mounted.

Apex means the uppermost or highest point.

Appeal means a review of a final decision by a higher authority.

Applicant means the owners or lessees of property, their agent, or persons who have contracted to purchase property, or the city or other quasi-governmental entity that is proposing an action requiring review and approval by one or more of the sections in this title. An applicant may subsequently become the developer once approval is granted and, in this case, the terms shall be interchangeable.

Approach surface means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in division 4 of article III of chapter 8 of this title. In plan view, the perimeter of the approach surface coincides with the perimeter of the approach zone.

Appurtenances means the visible, functional objects accessory to and part of buildings or structures and which may extend above the height of the roof.

Area, for the purposes of this article, means the geographical region or the extent of land identified with one or more areas of significance as set forth in criteria for designation, section 24-947, and may be nominated for historic designation on the local register.

Area of shallow flooding means a designated Zone AO or AH on a community's flood insurance rate map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

Art means all forms of original creations of visual art, including, but not limited to, sculpture; mosaics; painting, whether portable or permanently fixed, as in the case of murals; photographs; crafts made from clay; fiber and textiles; wood; glass; metal; plastics; or any other material or any combination thereof; calligraphy; mixed media composed of any combination of forms or media; unique architectural styling or embellishment, including architectural crafts, environmental landscaping; or restoration or renovation of existing works of art of historical significance. Works of art are not intended to be used for commercial advertising purposes.

Arterial street (see *Street*).

Articulation means using architectural elements such as windows, balconies, entries, etc., to visually break the appearance of large buildings or walls into smaller, identifiable pieces.

Assembly building, as used in chapter 18 of this title, means any building or portion of building or structure used for the regular gathering of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, dining or awaiting transport.

Assisted living unit means a residential facility that provides rooms, meals, personal care and supervision of self-administered medication, as well as other services, including recreational activities and transportation, to individuals who do not have an illness, injury or disability for which regular medical care or 24-hour nursing services are required. An assisted living unit shall not be considered a board and care home or a nursing home.

Automobile wrecking yard (see *Junkyard*).

Awning means a framed exterior architectural feature, attached to and supported from the wall of a building and/or held up by its own supports, which provides or has the appearance of providing shelter from the elements to pedestrians, vehicles, property or buildings.

Awning, internally illuminated, means any transparent backlit awning or awning lettering which transmits light from within the awning to the outside surface of the awning.

Awning sign means a sign that is mounted or painted on or attached to an awning.

Backing means the background area of a sign, which differentiates the total sign display from the background against which it is placed.

Banner means a sign applied to flexible materials (e.g., cloth, paper or fabric of any kind) with no enclosing framework.

Bare tube neon means a bare tube neon light attached to a building that is used to light or accent the building and/or its architecture.

Base flood elevation (BFE) means the elevation shown on a FEMA flood insurance rate map that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.

Basement means any level of a building where more than one-half of the vertical distance between floor and ceiling is below the grade of the site.

Beacon (see *Searchlight, strobe light or beacon*).

Bed and breakfast means a building, or portion thereof, of residential character, offering temporary lodging for compensation and at least one meal daily for guests and having a manager residing on the premises. Rooms in a bed and breakfast shall not be rented more than twice during any 24-hour period.

Bedroom means any room intended and used principally for sleeping purposes.

Berm means a mound of earth, higher than grade, used for screening, definition of space, noise attenuation and decoration in landscaping.

Bicycle parking space means a space for one standard bicycle, located in a secure bicycle rack on the same lot as the structure for which the bicycle parking is intended to serve.

Billboards and bus bench/shelter sign (see *Off-premises advertising device*).

Block means a group of lots within defined and fixed boundaries of a subdivision and usually being an area surrounded by streets or other features such as parks, railroad rights-of-way or municipal boundary lines.

Block face means all lots on one side of a block.

[GRAPHIC - Block face]

Board and care home means a residential facility providing room and board to one or two individuals who are not related to the owner or principal occupant and who, because of impaired capacity for independent living, elect protective oversight, personal services and social care, but do not require regular 24-hour medical or nursing care. A board and care home shall not be considered an assisted living unit or nursing home.

Boardinghouse and *roominghouse* means a building or portion thereof which is used to accommodate boarders or roomers, not including members of the occupant's immediate family who might be occupying such building, and whose occupants shall have common access to kitchen, bathroom and dining areas. Boardinghouses and roominghouses shall not include hotels, motels and lodges.

Brewpub means a business for the brewing, sale and consumption of alcoholic beverages on the premises and which may also prepare and sell food on the premises.

Buffer means to promote separation and compatibility between land uses of different intensities within or adjacent to a development, or along roadways or other public areas through the use of setbacks, natural vegetation, berms, fences, walls or a combination thereof. The term "buffer" may also be used to describe the methods used to promote compatibility such as a landscape buffer.

Buffer yard means that area intended to provide buffering between land uses of different intensities or along roadways or other public rights-of-way.

Building means any structure built for the shelter or enclosure of persons, animals or property of any kind, excluding fences or walls.

Building appurtenance means the visible, functional or ornamental object accessory to and part of a building.

Building code means any law, ordinance or code which is in force in the city and which pertains to the design and construction of buildings and other structures, or to any components thereof, such as cooling and heating, plumbing, electricity and the like.

Building envelope means the area in which a building or structure is constructed or placed in a development and in which the land area beyond the envelope is under the common ownership of all property owners within the development.

Building footprint means the outline of the total area which is covered by a building's perimeter at the ground level.

Building frontage means the horizontal linear dimension which is designated as the primary facade of that portion of a building occupied by a single use or occupancy. Corner tenants will be permitted to use their secondary facade to determine their building frontage.

Building frontage, principal, means the horizontal linear dimension which is designated as the primary façade of that portion of a building occupied by a single use or occupancy.

Building frontage, secondary, means that dimension of a building abutting a public right-of-way other than the principal building frontage.

Building or structure height means the vertical distance from grade at an exterior wall of a building or structure to the highest point of the coping of a flat roof, to the average height of the highest gable of a hipped roof, or a monitor roof, or to the highest point of a curved roof. For the purposes of measuring the setback and height performance options in section 24-1030, setback increases shall only be required for that portion of the building for which a height increase is sought. This measurement shall be exclusive of church spires, cupulas, chimneys, ventilators, pipes and similar appurtenances. For the purposes of this definition, grade, as a point of measure, means either of the following, whichever yields a greater height of building or structure:

(1) The elevation of the highest ground surface within a five-foot horizontal distance from the exterior wall of the building, when there is less than a ten-foot difference between the highest and lowest ground surface within a five-foot horizontal distance from said wall.

(2) An elevation ten feet higher than the lowest ground surface within a five-foot horizontal distance from the exterior wall of the building, when there is greater than a ten-foot difference between the highest and lowest ground surface within a five-foot horizontal distance from said wall.

The height of the building is the vertical distance above a reference datum measured to:

[GRAPHIC - Building with flat roof (measured to highest point of coping)]

[GRAPHIC - Mansard roof (measured to deckline)]

[GRAPHIC - Hipped or gabled roof (measured to average of highest gable)]

[GRAPHIC - Gabled roof (2 or more gables) (Measured to the average of the highest gable)

[GRAPHIC - Building heaight from ground]]

*Measure height at ten feet above the lowest point of the ground.

Building, principal, means the primary building on a lot or a building that houses the principal use.

Building unit, as used in chapter 18 of this title, means a building or structure intended for human occupancy. A dwelling unit, every guest room in a hotel/motel, every 5,000 square feet of building floor area in commercial

facilities and every 15,000 square feet of building floor area in warehouses or other similar storage facilities is equal to one building unit.

Burden of proof shall be a preponderance of the evidence.

Business identification sign means a sign giving the name, nature, logo, trademark or other identifying symbol of a business and which may also include the address of the business.

Candela is a unit of luminous intensity, defined as the luminous intensity of a source that emits monochromatic radiation of frequency 540 x 10 12 Hertz and that has a radiant intensity of 1/683 watt/steradian and adopted in 1979 as the international standard of luminous intensity.

Canopy means a roofed structure for the purpose of shielding pedestrian walkways or driveways which service operations or equipment, such as with a gas station or bank drive-up facility.

Cemetery means land used for the burial of the dead and dedicated for cemetery purposes, including columbariums and mausoleums.

Centerline (of public right-of-way) means a line running midway between the bounding right-of-way lines of a street or alley. For the purposes of calculating signage, the centerline means the apparent centerline of the road determined by finding the point midway between the outer edges of the road surface.

Certificate of approval means a certificate issued by the city authorizing the construction, alteration or demolition of property and improvements designated under this article.

Change of use means a use that substantially differs from the previous use of a building or land and which may affect such things as parking, drainage, circulation, landscaping, building configuration, noise or lighting. A change of ownership which does not include any of the factors listed above shall not be considered a change of use.

Changeable copy sign (also known as a marquee sign) means a sign designed to allow the changing of copy as with individual letters through manual means, without altering the sign backing or structure in any such way.

Channel means a natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuous or periodic flowing water.

Channel letters, individual letters, raceway and channel sign means individual letters, flat cutout letters or symbols constructed to be applied singly in the formation of a wall sign or freestanding sign.

Channelization means the artificial creation, enlargement or realignment of a stream channel.

Character mean the sum or composition of a building's or group of buildings' attributes which serve to distinguish its appearance and establish its visual image. Attributes that contribute to character include, but are not limited to, size, shape and height of buildings, materials, architectural style, sidewalk location and vegetation.

Character overlay district means an overlay district established for the purposes of maintaining and preserving the attributes which make up the character of a particular and definable area within the city, as provided for in article III of chapter 8 of this title.

Chief building official means the chief building official of the city.

Childcare center means a facility which is maintained for the whole or part of a day for the care of seven or more children under the age of 16 years and not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term "childcare center" also, includes, but is not limited to, facilities commonly known as daycare centers, day nurseries, nursery schools, preschools, play groups, day camps and summer camps.

Childcare home means a facility providing care and/or training in a place of residence, on a regular basis, for compensation, for no more than six children under the age of 16 years who are not related to the caretakers and not including 24-hour care. This type of childcare home provides less than 24-hour care for two or more children on a regular basis in a place of residence.

(1) Care may be provided for up to six children from birth to 13 years of age with no more than two children under two years of age. This shall not prohibit the care of children with special needs ages 13 to 18 years.

(2) Care also may be provided for no more than two additional children of school age attending full-day school. School-age children are children enrolled in a kindergarten program a year before they enter the first grade and children six years of age and older.

(3) Residents of the home under 12 years of age who are on the premises and all children on the premises for supervision shall be counted against the approved capacity.

(4) A major childcare home is a state-licensed childcare facility in a home, operated by an experienced childcare provider/proprietor for the purposes of care for up to nine children in conformance with the Colorado Code of Regulations.

Church means a place designed and intended for the regular assembly for the purposes of religious worship, meetings and other church-sponsored activities. Accessory uses such as schools, daycare centers, columbariums, counseling services and bingo parlors shall be permitted, provided that such accessory uses shall be secondary to that of normal church activities and shall be permitted within the zoning district in which the subject property is located.

Circumference means the perimeter measurement of a building or structure, measured as a continuous line.

City means the City of Greeley, Colorado.

City council means the city council of the City of Greeley, Colorado.

City manager means the city manager, or the city manager's designee or other official, body or agency designated by the Charter or ordinance to act on behalf of the city.

Clear vision zone or area means that area which the city requires an unobstructed line of sight necessary for most drivers stopped at an intersection to see an approaching vehicle, pedestrian or bicyclist to avoid a collision.

[GRAPHIC - APPENDIX 18-H Clear Vision Sight Distance Triangles]

Cluster subdivision or *development* means a form of development in which the lot sizes are reduced and the resulting land area is devoted to common open space.

[GRAPHIC - Cluster subdivision]

Co-generation plant means a facility for the purposes of producing power as a by-product of a manufacturing or power-producing process.

Collector street (see *Street*).

Columbarium means a structure or place for the interment of ashes of the cremated dead.

Commemorative sign means a sign, tablet, cornerstone or plaque memorializing a person, event, structure, site or landmark and not sued to advertise a product, service or activity.

Commercial or *industrial development identification sign* means an on-premises sign for identifying a commercial or industrial development, park or subdivision.

Commercial mineral deposit means a natural mineral deposit of limestone used for construction purposes, coal, sand, gravel and quarry aggregate, for which extraction is or will be commercially feasible and regarding which it can be demonstrated by geologic, mineralogic or other scientific data that such deposit has significant economic or strategic value to the area, state or nation.

Commission means the planning commission of the city, or in chapter 18 of this title, the oil and gas conservation commission of the State of Colorado (OGCC), or in this article, the historic preservation commission of the city.

Common consumption area means an area designed as a common area located within a designated Entertainment District and approved by the local licensing authority that uses physical barriers to close the areas to motor vehicle traffic and limit pedestrian access.

Community, as used in chapter 13 of this title, means one or more populations of plants and animals in a common grouped arrangement, within a specified area.

Community development director means the community development director of the city.

Community event sign means a sign that provides information relating to any community event sponsored by a nonprofit group or agency.

Compatible means having harmony in design, appearance, use and/or function of the characteristics of a building or structure, a neighborhood or an area. Design characteristics may include, but are not limited to, height, mass, scale, land use, architecture, color and materials.

[GRAPHIC - Compatible roof pitch, scale, massing and height]

Comprehensive plan means the comprehensive plan of the city, as provided for in the city Charter and which provides for the future growth and improvement of the community, for the preservation of historic and natural resources and for the general location and coordination of streets and highways, recreation areas, public building sites and other physical development.

Conditional letter of map revision (CLOMR) means FEMA's comment on a proposed project which does not revise an effective floodplain map, which would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Condominium means a form of ownership in which the interior floor space of a unit or area is owned individually, and the structure, common areas and facilities are owned by all of the owners on a proportional, undivided basis.

Conical surface means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

Conservation easement means an easement acquired by the public and which is designed to restrict the use of private land to preserve open space or natural resource areas.

Contractor sign means a sign naming those engaged in the design, financing and construction on the property where the sign is located.

Contributing buildings, site, structures and objects, for the purposes of this article, means historic properties within the proposed or designated district and includes individually designated properties and nondesignated properties that contribute to the historic district by their shared and unique architectural, historic or geographic characteristics.

Convenience store means a general retail store which sells goods which may include ready-to-eat products, groceries and sundries which comprise more than 25 percent of all sales and which may accompany gasoline pumps and the sale of gasoline.

Copy or print shop means an establishment that provides duplicating services using photocopy, blueprint, offset and typesetting printing equipment and including collating of booklets and reports.

Cornerstones means a stone forming a part of a corner or angle in a wall that provides building identification.

Correctional facility means a secured facility providing housing and treatment of those convicted and confined for serious criminal offenses.

Corridor or *movement corridor* means a belt, band or stringer of vegetation or topography that provides a completely or partially suitable habitat and which animals follow during daily, periodic or seasonal movements.

Coverage means land area which is covered with impervious surfaces, such as buildings, patios or decks with roofs, carports, swimming pools, tennis courts or land area covered by any other type of structure, including parking lots.

Crematorium means a place for the cremation of human or animal remains.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, as specified in section 24-728, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

Critical feature means an integral and readily identifiable part of a flood-protection system, without which the

flood protection provided by the entire system would be compromised.

Cul-de-sac means a local street of no more than 500 feet in length, with one open end and the other end terminating in a vehicular turn around.

Day means a calendar day, unless otherwise noted.

Deciduous means a plant with foliage that is shed annually.

Deck means a floored outdoor area, typically elevated above grade and adjoining a residential dwelling.

Dedication means setting aside property for a specific purpose, including, but not limited to, streets, utilities, parks and trails.

Demolition, for the purposes of this this article, means any act or process which destroys, in part or in whole, any designated property or property located within a designated historic district.

Demolition by neglect means neglect in maintenance, repair or security of a site, building or structure, resulting in any of the following conditions:

(1) The deterioration of exterior walls or other vertical supports or a portion thereof;

(2) The deterioration of roofs or other horizontal members;

(3) The deterioration of exterior chimneys;

(4) The deterioration of exterior plaster or mortar;

(5) The ineffective weatherproofing of exterior walls, roofs and foundations, including broken windows and doors; or

(6) The serious deterioration of any documented exterior architectural feature or significant landscape feature which, in the judgment of the commission, produces a detrimental effect upon the character of the district.

Density means the number of dwelling units per gross acre of land area.

Designated property means an historic property individually listed on the city's historic register through the procedural requirements in section 24-948 and which meets the criteria set forth in section 24-947.

Detention area means an area which is designed to capture specific quantities of stormwater and to gradually release the same at a sufficiently slow rate to reduce the risk of flooding.

Developing means a lot, or grouping of lots or tracts of land, with less than 60 percent of their perimeter boundary adjacent to existing development. For the purposes of this definition, public parks, natural areas and other such areas which are not eligible for further development shall be considered developed. Areas which were originally platted prior to 1978 and which have at least 75 percent of the lots in the development built on within this 20-year period shall also be considered developed. A replat of the original plat shall not affect the commencement of this 20-year period.

Development means any construction or activity which changes the basic character or use of land on which construction or activity occurs, including, but not limited to, any non-natural change to improved or unimproved real estate, substantial improvements to buildings or other structures, mining, dredging, filling, grading, paving, extraction or drilling operations.

Development concept master plan means a preliminary master plan for the development of a large or complicated land area, the platting of which is expected in progressive stages.

Development or subdivider's agreement means a written instrument for the purposes of specifying all improvements to be constructed by the subdivider, as well as the time table for construction of such improvements, any special conditions of construction and construction cost estimates.

DFIRM database means a database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital flood insurance rate map (DFIRM) means a FEMA digital floodplain map. These digital maps serve as regulatory floodplain maps for insurance and floodplain management purposes.

Direct lighting means spot or floodlighting used to illuminate a sign surface.

Directional on-site means signs that direct the movement or placement of pedestrian or vehicular traffic on a lot without reference to, or inclusion of, the name or logo of a product sold or services performed on the lot or in a building, structure or business enterprise occupying property, such as "welcome," "entrance," "exit," "restrooms," "parking," "loading area" and "drive-thru."

Director, for the purposes of chapter 18 of this title, means the director of the oil and gas conservation commission of the state.

Directory sign means a sign listing the names, uses or locations of the various businesses or activities conducted within a building or group of buildings, that is centrally located and intended to provide on-site directions and is not legible off-site.

Dissolve means a mode of message transition on an electronic message display accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

District means a portion of the community within which uniform regulations apply.

District designation plan, for the purposes of this article, means a plan generated by the historic district residents and/or owners for commission use in reviewing certificate of approval applications. This plan shall incorporate elements such as, but not limited to, building height, setback, building envelope and new construction.

Downtown Entertainment District means that area contained within the south curb flow line of 7th Street, the west curb flow line of 8th Avenue, the north curb flow line of 10th Street and the east curb flow line of 9th Avenue.

Drive-in or *drive-thru* means an establishment that, by design of physical features or by service or packaging procedures, encourages or permits customers to order and receive food or beverages while remaining in a motor vehicle for consumption on or off the site and which includes a menu board and audio or video speakers.

Drive-up means an establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive services or obtain or drop off products while remaining in a motor vehicle and which excludes a menu board and/or audio or video speakers.

Driveway means an improved concrete or asphalt path leading directly to one or more city-approved parking spaces constructed with a concrete, asphalt or similar all-weather surface.

Dry wash channel means natural passageways or depressions of perceptible extent, containing intermittent or low-base flow.

Dust abatement plan means a plan intended and designed to control dust during the construction or development of property.

Dwelling or *residence*, *multiple-family*, means a building, site or a portion thereof which contains three or more dwelling units, not including hotels, motels, fraternities, sororities and similar group quarters.

Dwelling or *residence*, *secondary*, means a second, freestanding residential building constructed or placed on an infill lot or tract of land which contains a principal residential building.

Dwelling or *residence*, *single-family*, means a detached principal building, other than a mobile home, designed for and used as a single dwelling unit by one family. The term "single-family residence" includes a manufactured home which:

(1) Is partially or entirely manufactured in a factory;

(2) Is not less than 24 feet in width and 36 feet in length;

(3) Is installed on an engineered permanent foundation;

(4) Has a brick, wood or cosmetically equivalent exterior siding and all exterior walls which provide a consistent, continuous facade from the bottom of the soffit (top of the wall section) downward to the top

of the exposed perimeter wall, foundation or to grade, whichever is applicable; and has a pitched roof; and

(5) Is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC § 5401, et seq., as amended, and all regulations enacted pursuant thereto, including any local modifications as are expressly allowed by federal law, or which has been certified by the state as being in compliance with the requirements of the uniform building code, as adopted by the state and as is enforced and administered by the state division of housing.

Dwelling or *residence*, *two-family*, means a building containing two independent living units and which may commonly be referred to as a duplex.

Dwelling unit means one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease as a single unit, on a monthly basis or longer, physically separated from any other room or dwelling units which may be in the same structure and served by no more than one gas meter and one electric meter.

Easement means a right granted by a property owner permitting a designated part of interest in the property owner's property to be used by others for a specific use or purpose.

Ecological character means the natural features and attributes of an area or landscape that, combined, give the area its character.

Educational facility, as used in chapter 18 of this title, means any building used for legally allowed educational purposes for more than 12 hours per week for more than six persons. This includes any building or portion of building used for licensed daycare purposes for more than six persons.

Election sign means a sign related to public election.

Electronic message display means a sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Elderly group housing means a building which is occupied by not more than eight persons who are 60 years of age or older and who use the building as their primary residence, if the building is either owned by some or all of them or by a nonprofit corporation.

Elevated building means a nonbasement building built to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. Elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

Emergency, for the purposes of this article, means an unexpected and sudden event that must be dealt with urgently in order to stabilize or protect a structure.

Emergency shelter or mission means a facility operated by a nonprofit, charitable or religious organization providing temporary housing, food, clothing or other support services, such as counseling and referral services, primarily for homeless individuals or those at risk.

Enhancement means the improvement of the land or water of the impacted or replacement area, beyond that which would occur without the development.

Entertainment District means an area within the city that is designated as an Entertainment District of a size no more than 100 acres and containing at least 20,000 square feet of premises licensed as a tavern, hotel and restaurant, brew pub, retail gaming tavern or vintner's restaurant at the time the district is created.

Entertainment establishment shall be a land use designation in addition to the underlying principal land use and means:

(1) Any commercial establishment which shares a common wall or zero lot line property boundary with a residential land use or that is within 100 feet of a residential land use as measured from building to building, and:

a. Dispenses alcohol beverages on the premises and where amplified or live entertainment is provided; or

b. Does not dispense alcohol beverages but provides amplified or live entertainment either independent of or in conjunction with any other uses, except where amplified sound is provided only as background entertainment and at levels not to interrupt normal conversation at or beyond the property line.

Evergreen means a plant with foliage that persists and remain green year-round.

Existing development means any development in the city once all public improvements, including water, sewer, streets, curb, gutter, streetlights, fire hydrants and storm drainage facilities, are installed and completed.

Exposed incandescent or *high intensity discharge lighting* means any sign or portion of a sign that utilizes an exposed incandescent or high intensity lamp, with the exception of neon.

Exterior or *perimeter wall* means a wall, elements of a wall, parapet wall or any elements or groups of elements which define the exterior boundaries or courts of a building.

Facade means the exterior face of a building.

Fade means a mode of message transition on an electronic message display accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

Family means an individual living alone, or any number of persons living together as a single household who are interrelated by blood, marriage, adoption or other legal custodial relationship; or not more than two unrelated adults and any number of persons related to those unrelated adults by blood, adoption, guardianship or other legal custodial relationship. In multifamily units, the number of unrelated adults shall be determined based on the provisions of the city's housing code. For the purposes of this definition, a bona fide employee of the family who resides in the dwelling unit and whose live-in status is required by the nature of his employment shall be considered a member of the family.

Farming means the production of crops such as vegetables, fruit trees or grain; the growing of trees and shrubs for landscape purposes; and the raising of farm animals such as poultry or swine, which shall be limited to the animal unit capacity as determined in the definition of animal unit and the animal unit equivalency chart in these definitions. The term "farming" shall not include the commercial raising of animals, commercial production of milk, commercial pen feeding (feed lots) or the commercial feeding of garbage or offal to swine or other animals.

Federal register means the official daily publication for rules, proposed rules, and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

Fence means any artificially constructed barrier of an approved material or combination of materials erected vertically to enclose or screen areas of land.

Figures means an outline, shape or pattern of numbers, letters or abstract images.

Filing plat (see *Plat, filing*).

Financial security or guarantee means a financial obligation, in a form acceptable to the city, which assures completion and payment for all improvements related to development of property.

Flag means material attached to or designed to be flown from a flagpole or similar device and which may display the name, insignia, emblem or logo of any nation, state, municipality or commercial or noncommercial organization (see *Pennants*).

Flashing or animated means signs or lighting with flashing, blinking, moving or other animation effects or that give the visual impression of such movement by use of lighting, or intermittent exhibits or sequential flashing of natural or appearance of artificial light or colors, including those signs that rotate, revolve, spin, swing, flap, wave, shimmer or make any other motion, or illusion of motion, or which imitate official governmental protective or warning devices (see *Imitating sign*).

Flea or farmer's market means an occasional or periodic sales activity held within a building, structure or

open area where groups of individual sellers offer new and used goods or produce for sale to the public, not including private garage sales.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation or runoff of surface waters from any source.

Flood, base, means a flood having a one-percent chance of being equaled or exceeded in any year. The term "base flood" is used interchangeably with the terms "intermediate regional flood," "100-year flood," "one-percent flood" and "area of special flood hazard."

Flood boundary and floodway map (FBFM) means an official map, as amended from time to time, issued by the Federal Emergency Management Agency, where the boundaries of the base flood, floodway and 500-year flood have been delineated.

Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting or guiding flood flows along a particular waterway. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

Flood fringe means that portion of the floodplain that could be obstructed without increasing the water surface elevation of the base flood more than one foot.

Flood hazard, area of special, means the land within the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

Flood insurance rate map (FIRM) means an official map issued by the Federal Emergency Management Agency, as amended from time to time, where the boundaries of the base flood, 500-year flood, water surface elevations of the base flood and special flood hazard areas and the risk premium zones have been delineated.

Flood insurance study (FIS) means an official study by the Federal Emergency Management Agency, as amended from time to time, examining, evaluating and determining flood hazards, corresponding water surface elevations and flood profiles of the base flood.

Floodplain means an area which is adjacent to a stream or watercourse and which is subject to flooding as a result of the occurrence of an intermediate regional flood and which is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term "floodplain" includes, but is not limited to, mainstream floodplains, debris fan floodplains and dry wash channels and floodplains.

Floodplain, debris fan, means a floodplain located on landforms that form by deposition of water-transported rock fragments, soil and vegetation debris at the confluence of tributary streams with a larger trunk stream valley.

Floodplain, dry wash, means an area adjacent to a dry wash channel which is periodically subject to sudden water and debris flooding.

Flood-protection elevation, regulatory, means the elevation one foot above the peak water surface elevation of the base flood.

Floodplain administrator means the community official designated by title to administer and enforce the floodplain management regulations.

Floodplain development permit means a permit required before construction or development begins within any special flood hazard area (SFHA). Permits are required to ensure that proposed development projects meet the requirements of the NFIP and article III of chapter 8 of this title.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term "floodplain management regulations" describes such federal, state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and/or nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway) means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of map revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

[GRAPHIC - Floodway, floodplain, flood fringe]

Floor area, gross, means the total area of a building measured by taking the outside dimensions of the building at each floor level, or from the centerlines of walls separating two buildings and excluding areas used exclusively for the service of the building such as mechanical equipment spaces and shafts, elevators, stairways, escalators, ramps, loading docks, cellars, unenclosed porches, attics not used for human occupancy, any floor space in accessory buildings, or areas within the building which are intended for the parking of motor vehicles.

Floor area ratio means the ratio of floor area to lot area, commonly referred to as FAR.

Flow line means the low point within a street section wherein water is intended to collect and flow, typically the gutters along each edge of pavement.

Food and beverage processing facility (major) means a manufacturing establishment packaging, producing or processing foods for human consumption and certain related products and includes, but is not limited to, the following: bakery products, sugar and confectionary products (except facilities that produce goods only for on-site sales and not wider distribution); dairy products processing; fats and oil products (not including rendering plants); fruit and vegetable canning, preserving and related processing; grain mill products and by-products; meat, poultry and fish canning, curing and by-product processing (not including facilities that also slaughter animals); and miscellaneous food preparation from raw products, including catering services that are independent from food stores or restaurants.

Food and beverage processing facility (minor) means a manufacturing establishment primarily for packaging, producing or processing foods for human consumption that meets the definition of food and beverage processing (major) but which also dedicates a portion of the building footprint's square footage (a minimum of ten percent, up to 50 percent) to sales of food, beverages and/or other retail for on-premises purchase and/or consumption; and which occupies a site of three acres or less; and which cannot generate offensive odors, emissions, traffic or other off-site impacts or shall otherwise be considered a major food processing facility.

Frame means a complete, static display screen on an electronic message display.

Frame effect means a visual effect on an electronic message display applied to a single frame to attract the attention of viewers.

Fraternities and sororities means student organizations established primarily to promote friendship and welfare among the members and which shall provide a place of residence for members.

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood, such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Freestanding sign means a sign which is not attached to any building. A freestanding sign shall include, but is not limited to, a pole, monument, a canopy and freestanding wall sign. A sign that extends more than four feet from a wall but is attached and/or is part of a canopy or an awning shall be considered a freestanding sign.

Freestanding wall or *fence* means either a wall that is not attached to a building or a wall attached to a building that projects more than four feet beyond the exterior wall of the habitable portion of the building.

Frontage lot/property means that portion of a lot that is directly adjacent to a public street.

Funeral home or *mortuary* means a building or part thereof used for human funeral services, which may

contain space and facilities for services used in preparation of the dead for burial; the storage of caskets, urns and other related funeral supplies; and the storage of funeral vehicles. Funeral homes shall not include crematoriums as accessory uses.

Garage or *yard sale* means the occasional sale of new or used goods at a residence, which may be held outside and/or within a garage or accessory building and which shall occur no more than two times during a calendar year, for no more than three consecutive days each time, within any consecutive 12-month period.

Gas means all natural gases and all hydrocarbons not defined as oil.

General Improvement District #1 means that 19-block district bounded by 11th Street to the south, 6th Street to the north, 7th Avenue to the east and 11th Avenue to the west, excluding city Block 35.

Geologic hazard means a geologic condition which is adverse to current or foreseeable future construction or land use associated therewith, constituting a hazard to public health and safety or property, including, but not limited to, landslide, rock fall, subsidence, expansive soils, slope failure, mudflow or other unstable surface or subsurface conditions.

Ghost sign means old hand-painted signage that has been preserved on a building for an extended period of time, whether by actively keeping it or choosing not to destroy it.

Glare means a sensation of brightness within the visual field that causes annoyance, discomfort or loss in visual performance and visibility.

Grade means the average elevation of the finished surface of the ground, paving or sidewalk with a radius of five feet from the base of the structure.

Graphics means drawings, decals, paint or illustrations.

Gravel means inert materials such as loose fragments of rock larger than "pea" size and commonly used as parking surface material.

Gross floor area (see *Floor area*).

Gross land area means the total land area of a site or property, including land to be dedicated for streets and other public purposes.

Ground cover means those materials used to provide cover of the soil in landscaped areas and shall include river rock, cobble, boulders, patterned concrete, grasses, flowers, low growing shrubs and vines and those materials derived from once-living things, such as wood mulch.

Ground kites are freestanding frames usually covered with flexible fabric and designed to be animated by the wind to attract attention.

Group home means a residence operated as a single dwelling housing no more than eight individuals, licensed by or operated by a governmental agency, for the purpose of providing special care or rehabilitation due to physical condition or illness, mental condition or illness, or social or behavioral problems, provided that authorized supervisory personnel are present on the premises. The term "group home" shall not include alcoholism or drug treatment centers, work release facilities or other housing facilities serving as an alternative to incarceration. Group homes which are mandated by federal or state regulations shall be permitted as required by law.

Group home, over eight residents, means an institutional facility for more than eight individuals, licensed by or operated by a governmental agency, for the purpose of providing special care or rehabilitation due to physical condition or illness, mental condition or illness, social or behavioral problems, for alcoholism or drug treatment, or work release facilities.

Guest means a person who is visiting at the principal or primary home of another person for up to 30 days, and which home is not the principal or primary home of the guest.

Habitat means areas that contain adequate food, water and cover to enable one or more species of wildlife to live in or use the area for part of all of the year and which typically consists of natural or planted vegetation, along with one or more sources of water available in the area or adjacent areas.

Habitat, aquatic, means areas which are typically adjacent to sub-irrigated areas or standing or flowing water

and which can be identified by the presence of water at or near the ground surface, including streams, rivers, creeks, lakes, ponds, reservoirs, wetlands, marshes, springs, seep areas, bogs and riparian areas.

Habitat, terrestrial, means trees, shrubs, grasses, forbs and legumes which provide food and/or cover for one or more species of wildlife.

Hazard means any structure or use of land which endangers or obstructs the airspace required for aircraft in landing, take-off and maneuvering at the airport.

Hazard to air navigation means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Hazardous material means any substance or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance, or which may be detrimental to the natural environment and/or wildlife inhabiting the natural environment.

Health club means those private establishments intended for the purpose of improving or maintaining a person's physical health and well-being, including, but not limited to, private gymnasiums, private athletic, health or recreational gyms, reducing salons and weight control establishments.

Height (see *Building height*).

Height, for the purposes of determining the height limits in all zones set forth in article III of chapter 8 of this title and shown on the Greeley-Weld County Airport Zoning Map, shall be the mean sea level elevation unless otherwise specified.

Heliport means an area licensed for the loading, landing and takeoff of helicopters, including auxiliary facilities such as parking, waiting rooms, fueling and maintenance equipment.

Helistop means a heliport without auxiliary facilities.

High density area, as used in chapter 18 of this title, means an area determined at the time the well is permitted on a well-by-well basis, by calculating the number of occupied building units within the 72-acre area defined by a 1,000-foot radius from the wellhead or production facility and means any tract of land which meets one of the following:

(1) Thirty-six or more actual or platted building units within a 1,000-foot radius, or 18 or more building units are within any semi-circle of the 1,000-foot radius, at an average density of one building unit per two acres. If platted building units are used to determine density, then 50 percent of said platted units shall have building units under construction or constructed;

(2) An educational facility, assembly building, hospital, nursing home, board and care facility or jail is located within 1,000 feet of a wellhead or production facility; or

(3) If a designated outside activity area is within 1,000 feet of a wellhead or production facility, the area may become high density upon application and determination by the OGCC.

High impact areas, as used in chapter 13 of this title, means those designated areas which contain significant natural features which would be severely and negatively compromised by development. Such areas are identified on the areas of ecological significance map.

High intensity use, for the purposes of chapter 11 of this title, means a use expected to have a significant effect on adjacent properties as determined on table 24-1144.6, required buffer yards.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Hillside development means development in areas which contain existing, natural slopes in excess of 15 percent.

Historic district means a geographically definable area with a concentration of buildings, structures, sites, spaces or objects unified by past events, physical development, design, setting, materials, workmanship, sense of cohesiveness or related historical and aesthetic associations, that is recognized through listing in a local, state or

national landmarks register.

Historic preservation means the protection, rehabilitation and/or restoration of districts, buildings, structures and artifacts which are considered significant in history, architecture, archaeology or culture.

Historic property means the resources of the city, both public and private, including buildings, homes, replicas, structures, objects, properties, parks, land features, trees and sites that have importance in the history, architecture, archaeology or culture of the city, state or nation, as determined by the historic preservation commission.

Historic sign means a sign that has been officially designated as an historic landmark.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

Holiday decorations means temporary decorations, lighting or displays which are clearly incidental and customary and commonly associated with any national, state, local, religious or commonly celebrated holiday and which contain no commercial message.

Home occupation means an occupation, profession, activity or use conducted within a residential dwelling unit that is incidental and secondary to the use of a residential dwelling unit, which does not alter the exterior of the property or affect the residential character of the residential environment and which meets the provisions of this article.

Home occupation, rural, means an accessory use to a farming operation or a nonfarm household located in a rural area, designed for gainful employment involving the sale of agricultural produce grown on the site, conducted either from within the dwelling and/or from accessory buildings located within 500 feet of the dwelling occupied by those conducting the rural home occupation.

Homeowners' association means an association of homeowners or property owners within a development, typically organized for the purpose of enforcement of private covenants and/or carrying out the maintenance of common areas, landscaping, parks, building exteriors and streets.

Horizontal surface means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan view coincides with the perimeter of the horizontal zone (4,808 feet above sea level).

Hospital means a facility providing health services primarily for in-patients and medical or surgical care of the human sick and injured, including as an integral part, such related facilities as laboratories, out-patient services, rehabilitation and recovery services, training facilities, central service facilities and staff offices.

Hospital, nursing home, board and care facilities, as used in chapter 18 of this title, means buildings used for the licensed care of more than five in-patients or residents.

Hotel or *motel* means a facility offering furnished lodging accommodations on a daily or weekly rate to the general public, for which a lease or deposit is not required and which may provide additional services, such as restaurants, meeting rooms and recreational facilities. Rental of a hotel or motel room on a daily basis shall not occur more than twice during any 24-hour period.

Household pet means any nonvenomous species of reptile and any domestic dog, cat, rodent, primate or bird

over the age of four months, which is typically kept indoors. For the purposes of this definition, guide or assistance animals shall not be considered household pets.

Human sign means a person carrying or wearing a sign.

Hydric soils means soils which are saturated, or nearly so, during all or part of the year.

Hydrophilic plant populations means vegetation that requires standing or flowing water, or saturated or nearly saturated soils in order to grow.

Ideological sign means a sign which is not used for the purpose of advertising, identifying or announcing any commercial product, goods, establishment, facilities or services and which conveys ideas, philosophy or religious or political views not related to a specific election.

Illumination means the use of artificial or reflective means for the purpose of lighting a sign.

Imitating sign means signs which purport to be, are an imitation of, or resemble an official traffic sign, signal or equipment which attempt to direct the movement of pedestrian or vehicular traffic using such words as "Stop," "Danger" or "Caution" to imply a need or requirement to stop, or a caution for the existence of danger, such as flashing red, yellow and green (see *Flashing or animated*).

Incidental sign means nondescript signs, emblems or decals attached to a permanent structure informing the public only of those facilities or services available on the premises, such as a credit card sign or a sign indicating hours of business.

Indirect lighting means reflected light or lighting directed toward or across a surface.

Individual letters (see *Channel letters*).

Infill means a lot, or grouping of lots or tracts of land, with at least 60 percent of their perimeter boundary adjacent to existing development. If a right-of-way at least 120 feet in width or streets designated on the comprehensive transportation plan, as major collectors or arterial streets are adjacent to the subject lot, lots across such a street shall be excluded for the purposes of determining infill and at least 60 percent of the remaining boundaries of the site shall be adjacent to existing development for the lot to be determined to be infill.

Inflatable sign or *inflatable object* means any object filled with air or other gas, including balloons, which characterize a commercial symbol or contain a message.

Inspector, city, as used in chapter 18 of this title, means any person designated by the city manager or the city manager's designee, who shall have the authority to inspect a well site to determine compliance with chapter 18 of this title and other applicable ordinances of the city.

Intensity means an expression of the level or nature of development in nonresidential developments, or zones or specific land uses which are expected to have a certain level of intensity.

Intermediate care facility means a facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or nursing care facility provides.

Internal illumination means a light source that is contained within the sign itself, or where light is visible through a translucent surface.

Irrigation system means an automatically- or manually-controlled sprinkler system that supplies water to support vegetation.

Jail, as used in chapter 18 of this title, means those structures where the personal liberties of occupants are restrained, including, but not limited to, mental hospitals, mental sanitariums, prisons and reformatories.

Joint identification sign means a sign, structure or surface which serves as a common or collective identification for two or more uses on the same premises (see *Multi-tenant sign*).

Junk or *refuse* means garbage and all other waste matter or discarded or unused material such as, but not limited to, salvage materials, scrap metal, scrap materials, bottles, tin cans, paper, boxes, crates, rags, used lumber and building materials; manufactured goods, appliances, fixtures, furniture, machinery, motor vehicles or other such items which have been abandoned, demolished or dismantled, or are in such a condition as to be unusable for their

original use, but may be used again in present or different form for a new use; discarded or inoperable vehicles, machinery parts and tires; and other materials commonly considered to be refuse, rubbish or junk.

Junkyard means an industrial use for collecting, storing or selling scrap metal or discarded material or for collecting, dismantling, storing, salvaging or demolishing vehicles, machinery or other material and including the sale of such material or parts.

Kennel means a land use designation independent of or in conjunction with another land use and also means any premises, operated for compensation, where four or more dogs, cats or other household pets over three months of age are kept for the purpose of boarding, raising, sale, breeding, training, showing, treatment, day care or grooming, whether in special structures or runs or not.

Kiosk means a freestanding structure upon which temporary information and/or posters, notices and announcements are posted.

Land use means the way land is occupied or utilized.

Landing means a level part of a flight of stairs.

Landscape plan means a plan showing the treatment of all open space areas, parking lots, parking areas, areas adjacent to the public right-of-way and other landscaped areas, which may include any combination of living plants, such as trees, shrubs, vines, ground covers, flowers or grass; natural features, such as rock, stone, bark chips or shavings; and structural features, including, but not limited to, fountains, reflecting pools, screening walls, fences and benches. The landscape plan may include a perimeter treatment plan as defined in these definitions and shall delineate species, size and location of all landscape elements.

Landscaped area means an area for the planting of trees, shrubs, ground cover or a combination thereof and which is defined by an edge strip material or the adjacency of sod or lawn area.

Landscaping means any combination of living plants, such as trees, shrubs, vines, ground covers, flowers or grass; natural features, such as rock, stone, bark chips or shavings; and structural features, including, but not limited to, fountains, reflecting pools, screening walls, fences and benches. Landscaping shall not be covered with parking or outdoor displays.

Large retail use means a retail use or any combination of retail uses in a single building occupying more than 40,000 square feet of gross floor area.

Larger than utility runway means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Leading edge of means the point of a sign, including its support structure, nearest to the public right-of-way.

Legal description means a land description recognized by law, including the measurements and boundaries.

Legally nonconforming sign is a sign that was lawfully constructed prior to the most recent enactment of this article and has been maintained as a sign, but which no longer complies with the provisions of chapter 17 of this title as amended.

Legible means a sign capable of being read with certainty without visual aid by a pedestrian of normal visual acuity.

Letter of map revision *(LOMR)* means FEMA's official revision of an effective flood insurance rate map (FIRM) or flood boundary and floodway map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs) or the special flood hazard area (SFHA).

Letter of map revision based on fill (LOMR-F) means FEMA's modification of the special flood hazard area (SFHA) shown on the flood insurance rate map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Levee means a manufactured structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide

protection from temporary flooding.

Levee system means a flood protection system which consists of a levee or levees, and associated structures such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Live plantings means trees, shrubs and organic ground cover which are in healthy condition.

Livestock means animals typically related to agricultural or farming uses, including, but not limited to, chickens, swine, sheep, goats, horses, cattle, yaks, alpacas and emus.

Living unit means any habitable room or group of rooms forming a single habitable unit, used or intended to be used for living and sleeping, but not for cooking or eating.

Loading space or zone means an off-street space or berth used for the loading or unloading of cargo, products or materials from vehicles.

Local government designee, as used in chapter 18 of this title, means the office designated to receive, on behalf of the local government, copies of all documents required to be filed with the local governmental designee pursuant to the rules of the OGCC.

Local street (see *Street*).

Long-term care facility means a health institution that is planned, organized, operated and maintained to provide facilities and services to inpatients who require care on a full-time basis, including continuum care facilities, hospices, congregate and nursing care facilities.

Loss means a change in wildlife resources due to development activities, that is considered adverse and which would:

(1) Reduce the biological value of habitat;

(2) Reduce the numbers of species;

(3) Reduce population numbers of species;

(4) Increase population numbers of nuisance/generalist species;

(5) Reduce the human use of wildlife resources; or

(6) Disrupt ecosystem structure and function.

Lot means a parcel of land, established by a subdivision plat, having a minimum width of at least 20 feet, which shall be located on either a public right-of-way or on a legal and perpetual access and which is occupied or designed to be occupied by one or more principal buildings, structures or uses.

[GRAPHIC - Types of lots]

Lot area means the total square footage or acreage contained within lot lines.

Lot, corner, means a lot abutting on and at the intersection of two or more streets.

Lot coverage (see *Coverage*).

Lot depth means the average distance between the front and rear lot lines.

Lot, double frontage or through, means a lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot. The lot line abutting the street which provides primary access shall be considered the front lot line.

Lot, interior, means a lot other than a corner lot, with frontage on only one street.

Lot line means a line dividing one lot from another lot, or from a street or alley.

Lot line, front, means the property line dividing a lot from a street. On a corner lot, only one street lot line, which generally has the shorter street frontage, shall be considered as a front line.

Lot line, interior side, means a side lot line which is adjacent to a side lot line of another lot.

Lot line, rear, means the line opposite the front lot line. Where the side lot lines meet in a point, the rear lot line shall be assumed to be a line not less than ten feet long, lying within the lot and parallel to the front lot line.

Lot line, side, means any lot lines other than the front or rear lot line.

Lot line, street side, means a side lot line which separates the lot from a street.

[GRAPHIC - Lot and building lines]

Lot line, zero, means the location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line, provided that separations or setbacks between buildings meet all applicable building and fire code provisions.

[GRAPHIC - Zero lot line development]

Low intensity use, for the purposes of chapter 11 of this title, means a use expected to have a limited effect on adjacent properties as determined on table 24-1144.6, required buffer yards.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, shall not be considered a building's lowest floor, provided that such enclosure shall not be built so as to render the structure in violation of the applicable design requirements of division 2 of article III of chapter 8 of this title, floodplain overlay.

Low-water adaptive plants means those plants which have or can adapt to low levels of irrigation water.

Maintenance, as used in this article, means measures to protect and stabilize a property, including ongoing upkeep, protection and repair of historic materials and features. The term "maintenance" shall include the limited and responsive upgrading of mechanical, electrical and plumbing systems and other code-required work to make a property safe and functional.

Maintenance of landscaping means, but not be limited to, regular watering, mowing, pruning, fertilizing, clearing of debris and weeds, the removal and replacement of dead plants and the repair and replacement of irrigation systems.

Maintenance of a sign means cleaning, repairing, painting or replacement of defective parts in a manner that does not alter the dimension, material or structure.

Major alteration, for the purposes of this article, means a modification to a structure that has potential to significantly alter the character of the property and, includes, but is not limited to, window replacement; building addition; porch enclosure; reconstruction of a portion of the primary building; addition of dormers or other alteration to the roofline; reconstruction of features on a building; material replacement with a different material (e.g. siding, etc.); alteration or replacement of a character-defining feature; demolition; relocation; and new construction. Major alterations include any modification that is not considered maintenance or a minor alteration.

Manufactured home (see *Dwelling or residence, single-family*).

Manufacturing means the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products and the blending of materials such as lubricating oils, plastics or resin.

Mass means the total volume in size and height of a building or structure.

Material safety data sheet (MSDS) means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.

Mean sea level means, for the purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

Mechanical equipment means any and all equipment ancillary to the use or function of a building and/or structure, including, but not limited to, heating or cooling equipment, pool pumps and filters, electrical equipment, transformers, exhaust stacks and roof vents.

Medical or dental clinic or *office* means the office of practitioners of the healing arts, where the practitioner employs more than one person, the primary use is the delivery of health care services and no overnight accommodations are provided.

Medium intensity use, for the purposes of chapter 11 of this title, means a use expected to have a moderate effect on adjacent properties as determined on table 24-1144.6, required buffer yards.

Membership clubs and facilities means golf courses, tennis courts, swimming pools, country clubs and recreational facilities for fraternal organizations, all of which are owned and operated with a limited membership or by private individuals who own the facilities and are the sole users of them.

Menu board means a permanently mounted sign which lists the products or services available at a drive-in or drive-thru facility and not legible from the right-of-way.

Midpoint means that point equidistant from the foundation at ground level, to the apex of the roof, excluding roof structures, stairways, parapet walls, towers, flagpoles, chimneys or similar structures.

Mid-range expected service area means the growth area capable of accommodating the estimated increase in development in the city in the next five years.

Mineral owner means any person having title or right of ownership in subsurface oil and gas or leasehold interest therein.

Minor alteration, for the purposes of this article, means a modification to a structure that does not significantly alter the character of the property and includes, but is not limited to, replacement of roof; installation and repair/replacement of gutters if exterior trim elements are not altered; reconstruction and/or repair of portions of secondary structures; addition or replacement of storm windows and doors to existing windows and doors; repair or replacement of architectural elements with the same material, design, size, color and texture; replacement of less than 50 percent of a porch railing; replacement of original material with the same material (e.g. replacing a portion of wood siding with wood siding of same size, profile, type); removal of non-original material, such as vinyl, aluminum, etc.; adding awnings; repointing masonry; and signs requiring a permit.

Minor subdivision means a subdivision procedure that may be used for division of a parcel of land of two acres or less into not more than five lots which are intended for residential use; or of five acres or less into not more than three lots which are intended for commercial or industrial use; or for the creation of lots not less than 80 acres in size, the plat of which does not propose new public streets or municipal financial participation in any public improvements required as a result of said proposed plat. A minor subdivision may also be used for the aggregation of not more than five parcels into one or more parcels, the dedication and/or vacation of easements, the division of a parcel of land into townhouse lots, adjustments to lot lines and to correct errors in surveys or plats.

Mitigation means a mechanism for addressing undesirable impacts on fish, wildlife, plants, habitat and other natural resources. Mitigation may be accomplished in several ways, including reducing, minimizing, rectifying, compensating or avoiding impacts. The term "mitigation" may include:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action;

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

(3) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; or

(5) Compensating for the impact by replacing or providing substitute resources or environments.

Mixed-use means a building or structure that contains two or more different uses, one of which shall be residential.

Mobile home means a detached, single-family housing unit that does not meet the definition of single-family

dwelling or residence set forth in these definitions and which has all of the following characteristics:

(1) Designed for a long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities and has plumbing and electrical connections provided for attachment to outside systems;

(2) Designed to be transported after fabrication on its own wheels, on a flatbed or other trailers or on detachable wheels;

(3) Arrives at the site where it is to be occupied as a complete unit and is ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports or jacks, underpinned, connections to utilities and the like;

(4) Exceeding eight feet in width and 32 feet in length, excluding towing gear and bumpers; and

(5) Is without motive power.

Mobile home accessory building or structure means a building or structure that is an addition to or supplements the facilities provided in a mobile home. It is not a self-contained, separate, habitable building or structure. Examples are awnings, cabanas, garages, storage structures, carports, fences, windbreaks or porches and patios that are open on at least three sides.

Mobile home park or community means a site or tract of land, at least eight acres in size, held under one ownership, which is suited for the placement of mobile homes.

Mobile home park or community, existing, means a mobile home park or community for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) are completed before the effective date of the ordinance codified in this Development Code.

Mobile home park or community, expansion to, means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

Mobile home site means a plot of ground within a mobile home community designed for the accommodation of one mobile home and its accessory structures.

Model home means an unoccupied dwelling unit built on a site in a development for display and/or sales purposes and which may include an office solely for the development in which it is located, and which typifies the units that will be constructed in the development.

Moderate impact areas, as used in chapter 13 of this title, means those designated areas which contain significant natural features which would be moderately and negatively compromised by development. Such areas are identified on the areas of ecological significant map.

Monoculture means the extensive use of the same species of plant materials.

Monument sign means a freestanding sign supported primarily by an internal structural framework or other solid structure features where at least 60 percent of the base of the sign is in contact with the ground.

Moving/relocating means lifting a building, structure or object from the existing location and taking it to a new location.

Multi-tenant sign means a sign which serves as a common or collective identification for two or more uses on the same premises (see *Joint identification sign*).

Multiple use means a site, tract of land or development that contains more than one type of land use, including, but not limited to, residential, office, retail or industrial uses.

Mural means a graphic displayed on the exterior wall of a building, generally for the purposes of decoration or artistic expression, including, but not limited to, paintings, frescoes or mosaics, with the exception that any portion of the mural that references the business name, logo, words, text or brand-specific merchandise shall be considered a sign.

Nameplate sign means a door entrance sign indicating the name and address of a building or the name of an

occupant.

National Flood Insurance Program (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable federal regulations promulgated in title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

Natural area means aquatic or terrestrial habitats or areas which exist in their natural condition and which have not been significantly altered by human activity.

Natural area corridor means an aquatic or terrestrial corridor that connects one or more natural areas or habitats together.

Natural feature means those features which give an area its general appearance and ecological character and which attract or support the wildlife species that use or inhabit the area.

Neighborhood means the land area which is in the vicinity of the lot, tract or parcel of land in question and which will be affected to a greater extent than other land areas in the city by uses which exist on the lot or are proposed for it. A neighborhood also includes lots which are adjacent to one another and have a community of shared interest.

Neon means a sign illuminated by a light source consisting of a neon or gas tube that is bent to form letters, symbols or other shapes.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this article.

Newspaper and publishing plants means industrial facilities used for printing newspapers and large quantities of other printed materials, such as books, posters, leaflets and reports and which may include facilities for the shipping and receiving of materials and products.

Nits means a unit of measurement of luminance, or the intensity of visible light, where one nit is equal to one candela per square meter.

Nomination, for the purposes of this article, means the process of filing an application for designation.

Nonconforming means any building, structure or use that does not conform to the regulations of this Development Code, but which was lawfully constructed, established and/or occupied under the regulations in force at the time of construction or initial operation.

Noncommercial sign (see also *Residential complex, subdivision* or *residential identification sign*).

Nonconforming sign (see *Legally nonconforming sign*).

Nonconforming mobile home communities means mobile home communities lawfully established and properly licensed by the city under the 1976 Code, or which were developed and used prior to and as of September 5, 1972, as a place where mobile homes were located for residential occupancy and, as of that date, the area must have been in compliance with any and all applicable city or county ordinances and regulations related to mobile home use of land.

Noncontributing buildings, sites and structures means those properties which do not share the architectural, historical or geographical characteristics of the historic district except for their physical presence within the district. These properties do not contribute to the historic district's characteristics. New construction shall be considered a noncontributing building or structure.

No-rise certification means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a state-registered professional engineer.

Nursing home (see *Long-term care facility*).

Obstruction means any dam, wall, embankment, levee, dike, pile, abutment, projection, excavation channel rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any drain way, channel or watercourse, which might impede, retard or change the direction of a flow of water, either

by itself or by catching or collecting debris carried by such water.

Obstruction, for the purposes of article III of chapter 8 of this title, means any structure, growth or other object including a mobile object which exceeds a limiting height set forth in section 24-786.

Office means a building or portion thereof where services are performed involving predominantly administrative, professional or clerical operations.

Official map means the map establishing the zoning classifications of all land in the city and showing all amendments to zoning classifications as they may be adopted.

Off-premises advertising device means a sign or device that advertises a business establishment, good, facility, service or product which is not sold or conducted on the premises on which the sign or device is located and which may be designed to change copy on a periodic basis.

Off-street parking areas (see *Parking*).

Oil means crude petroleum oil and any other hydrocarbons, regardless of gravities, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas before or after it leaves the reservoir.

Oil and gas operations means exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, recompletion, reworking or abandonment of an oil and gas well, underground injection well or gas storage well; production operations related to any such well including the installation of flowlines and gathering systems; the generation, transportation, storage, treatment or disposal of exploration and production wastes; and any construction, site preparation or reclamation activities associated with such operations.

On-premises sign means a sign which advertises or directs attention to a business, product, service or activity which is available on the premises where the sign is located.

Opacity means the degree or extent that light is obscured.

Open space, common, means a common area permanently set aside for the common use and enjoyment of residents or occupants of a development or members of a homeowners' association, which open area may be landscaped and/or left with natural vegetation cover and which may include swimming pools and other recreational leisure facilities; areas of scenic or natural beauty and habitat areas; hiking, riding or off-street bicycle trails; and landscape areas adjacent to roads which are in excess of minimum required rights-of-way.

Open space, private or on-lot, means an outdoor area not intended for habitation, directly adjoining a dwelling unit or building, which is intended for the private enjoyment of the residents or occupants of the adjacent dwelling unit or building and which is defined in such a manner that its boundaries are evident. Private or on-lot open space may include lawn area, decks, balconies and/or patios.

Open space, usable, means that portion of a lot excluding the required front yard area which is unoccupied by principal or accessory buildings and available to all occupants for the building for use for recreational and other leisure activities normally carried on outdoors. The area shall be unobstructed to the sky and shall have a minimum dimension of 50 feet and a minimum area of 6,000 square feet. Usable open space shall also include recreational facilities as determined in article VI of chapter 8 of this title.

Operating plan, as used in chapter 18 of this title, means a general plan which describes an oil and gas exploration and production facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operation, source of services and infrastructure, any mitigation plans and any other information related to regular functioning of that facility.

Operator, as used in chapter 18 of this title, means the person designated by the owner or lessee of the mineral rights as the operator and so identified in oil and gas conservation commission applications.

Oriented means to locate or place a building or structure in a particular direction on a lot or site which shall generally be parallel to the adjacent street.

[GRAPHIC - Buildings oriented to the street]

Ornamental tree means a deciduous tree planted primarily for its ornamental value or for screening and which will typically be smaller than a shade tree.

Outdoor display means the display of products for sale outside a building or structure in areas to which customers have access, including vehicles, garden supplies, tires, motor oil, boats, aircraft, farm equipment, motor homes, burial monuments, building and landscape materials and lumber yards. Outdoor display areas in vehicular parking areas shall not impede access or reduce the number of required parking spaces.

Outdoor storage means the keeping, outside a building, of any goods, material, merchandise or vehicles in the same place for more than 24 hours. Outdoor storage shall not include the storing of junk or the parking of inoperable motor vehicles. Storage of commercial recreational vehicles/equipment, boat and personal vehicles are excluded from this definition.

Outlot means a tract of land platted in a subdivision for a specific purpose which shall be shown on the face of the plat. Specific purposes may include, but are not limited to, drainage areas, stormwater detention or retention areas, parks, open space, future development or land areas reserved for other public facilities.

Overlay district means a zoning district classification which encompasses a defined geographic area and imposes additional requirements above that required by the underlying zoning.

Parapet wall means an extension of the fascia wall above the roofline, which appears architecturally contiguous.

Parcel means a unit or contiguous units of land in the possession of, or recorded as the property of one person, partnership, joint venture, association or corporation, or other legal entity.

Park means any dedicated and accepted public or private land available for recreational or scenic purposes.

Parking means the parking or leaving of an operable, licensed vehicle, current in its registration, for a temporary period.

Parking areas or lots means areas designed, used, required or intended to be used for the parking of motor vehicles, including driveways or access ways in and to such areas but excluding public streets and rights-of-way.

Parking lot or structure means a parcel of land devoted to parking spaces as set forth by the parking standards of the city.

Parking, shared, means the development and use of parking areas on two or more separate properties for joint use by the uses on those properties.

Parking slab means a paved parking space located off-street and designed to accommodate two standard-sized motor vehicles as provided in the off-street parking and loading requirements chapter of this Development Code.

Parking space means a space or stall within a parking area established in conformance with this Development Code.

Parking space, storage, means a space for the storage of operable, licensed vehicles, current in registration, including recreational vehicles or equipment, for a period of 30 days or longer.

Parkway means the strip of land located between the sidewalk and the curb.

Party-in-interest means the applicant, developer or subdivider of a development application or a citizen of the city who provided verbal or written comments at the hearing on the development application, who may appeal decisions as provided for in chapter 7 of this title.

Path or *pathway* means a designated route or path for nonmotorized use such as for walking or bicycling. Paths may include both sidewalks and trails.

Patio means a hard-surfaced outdoor area adjoining a mobile home site not covered by a mobile home and not used for parking.

Pedestrian plaza means that area of 8th Street Plaza between the west right-of-way line of 8th Avenue and the east right-of-way line of 9th Avenue and the mid-block access between the 9th Street Plaza and the 8th Street Plaza.

Pennants means any long, narrow, usually triangular flag typically made of lightweight plastic, fabric or other

material, and not containing a message, image or representative symbol, usually found in a series on a line and designed to move in the wind.

Perimeter treatment plan means a plan designed for the installation and perpetual maintenance of improvements intended to provide visual and noise protection for the outer edges of developments which border arterial or major collector streets. Said plan shall include materials, techniques and sizes of buffering treatments, such as landscaping, fencing, screen walls, berms or a combination thereof sufficient to provide adequate buffering. The perimeter treatment plan may be incorporated into and shown on the landscape plan.

Permanent sign means a sign attached to a building, structure or the ground in a manner that precludes ready removal or relocation of the sign.

Permitted sign means a sign having a legal permit issued in accordance with the provisions of chapter 17 of this title.

Permitted use means a use allowed in a zoning district and subject to the restrictions which apply to that district.

Permitted use, design review, means a use allowed in a zoning district and subject to the restrictions and design review criteria which apply to that district and land use.

Person means any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user or owner or any representative, officer or employee thereof.

Personal service shops means shops primarily engaged in providing services generally involving the care of the person, such as portrait and photographic studios, massage therapists, barber, beauty and nail salons, shoe and watch repair, travel agencies and similar services, but excluding adult business, service or entertainment establishments.

Physical map revision (PMR) means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations and/or planimetric features.

Planned unit development (PUD) means a development planned, designed and constructed with specific standards as an integral unit and which typically consists of a combination of uses on land within a PUD district and provides for an equivalent level of standards.

Planned unit development, final plan, means a site specific development plan which describes all details for a specific site and which shall require detailed engineering and design approval as provided in article II of chapter 8 of this title.

Planned unit development, master plan, means a plan required for properties which are intended to be developed over time and which shall include general information on street pattern, school sites, parks or other public areas or facilities and land uses and utility systems within the area surrounding a proposed PUD.

Planned unit development, preliminary plan, means a plan that specifies the range of land uses and general layout of improvements, landscaping and buffering, circulation, setbacks, open space and height and massing of buildings and structures proposed for the site.

Planning commission means the planning commission of the city.

Plat means a subdivision map or plan of property.

Plat, filing, means a subdivision map used in conjunction with a planned unit development, to identify the legal boundaries of a lot or grouping of lots.

Plat, final, means a completed map of a subdivision setting forth fully and accurately all legal and engineering information, survey certification and any accompanying materials as required by chapter 4 of this title.

Plat, preliminary, means a proposed subdivision map and any accompanying materials as required by chapter 4 of this title, which provide sufficiently detailed information so that preliminary agreement as to the form and content of the plat, within the objectives of chapter 4 of this title, may be reached between the subdivider and the city.

Pole sign means a sign that is affixed, attached or mounted on a freestanding pole or structure that is not itself an integral part of or attached to a building or structure.

Portable sign means a sign that is not permanently affixed to a building, structure or the ground and that is easily moved, such as a sandwich board sign.

Practicable means capable of being done within existing constraints including environmental, economic, technological or other pertinent considerations.

Precision instrument runway means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS). It shall also mean a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Premises means the land, site or lot at which, or from which, a principal land use and activity is conducted.

Preservation plan means the officially adopted document which provides information about local history and preservation programs and articulates city preservation goals and objectives and guides decisions and actions of the historic preservation commission and staff.

Primary entrance means the entrance to a building or structure which is intended to be the principal entrance and which shall typically be located on the front of the building or structure.

Primary surface means a surface longitudinally centered on a runway extending 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

(1) 250 feet for runways having only visual approaches.

(2) 1,000 feet for precision instrument runways.

Principal building or structure (see *Building*).

Private sale or event sign means a sign that provides information relating to a sale or event being held by an individual or group of individuals on private property, which may include, but not be limited to, a garage or yard sale.

Production facilities, as used in chapter 18 of this title, means all storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flow lines and other equipment directly associated with oil wells, gas wells or injection wells.

Prohibited activities sign means signs located on a property posting said property for warning or prohibition, such as "no hunting," "no swimming" or "no parking."

Projecting wall sign means any sign attached to a building and that extends more than 20 inches from the surface to which it is attached, but no more than four feet from the wall of the building. Signs projecting more than four feet from the building shall be considered freestanding signs.

Promotional association means an association that is incorporated within the state that organizes and promotes entertainment activities within a common consumption area and is organized or authorized by two or more people who own or lease property within an Entertainment District.

Public means a person, structure, activity or purpose owned or operated by a governmental agency or by a public nonprofit corporation with tax-exempt status under the federal Internal Revenue Code.

Public affairs sign means a sign erected and maintained by or on behalf of the government for civic purposes.

Public comment means any notation, observation, remark or recommendation made during a hearing by a member of the public in response to a proposed commission action.

Public hearing means a hearing held to allow interested persons to present their views before the zoning board of appeals, planning commission or city council. A public hearing is different from an open meeting which does not allow participation by the public.

Public improvement means any improvement required by chapter 4 of this title for which the city or a quasi-public agency agrees to assume responsibility for maintenance and operation, or which may affect an improvement

for which the city or a quasi-public agency is already responsible. Such facilities include, but are not limited to, streets, parks, trails, drainage facilities, water and sewer facilities, gas, electricity, telephone, cable television and other utility facilities.

Public sign means signs required or specifically authorized for a public purpose by any law, statute or ordinance, including public directional signs on the right-of-way; signs which identify the city by name; signs that direct travelers to public buildings, parks or attractions; interpretative signs; way-finding signs, municipal uniform traffic control devices; and the like.

Public structure, activity or purpose means a structure, activity or purpose owned or operated by a governmental agency or by a public nonprofit corporation with tax-exempt status under the federal Internal Revenue Code, if the nonprofit corporation makes the structure or facility available for the use of all members of the public without regard to membership status.

Quasi-public means a structure, activity or purpose owned or operated by a nonprofit organization which obtains more than 51 percent of its funds from public funds.

Real estate model home sign means a sign identifying a model home within a subdivision and/or a temporary real estate sales office.

Real estate open house sign means a sign identifying that a building or portion of a building is available for inspection by prospective buyers or renters.

Real estate sign means a sign on the offered property which advertises the sale, rental, lease, transfer or exchange of the premises upon which said sign is located.

Recreational equipment means equipment intended for outdoor recreational use, including, but not limited to, snowmobiles, jet skis, all-terrain vehicles (ATVs), canoes and boats, and including the trailers for transporting such equipment (see also *Recreational equipment, major* and *Recreational equipment, minor*).

Recreational equipment, major, means boats that exceed 18 feet in length, utility trailers that exceed the dimensions of five feet by eight feet and enclosed utility trailers that exceed the dimensions of five feet by eight feet and are more than three feet in height.

Recreational equipment, minor, means boats that are 18 feet or less in length, utility trailers that are five feet by eight feet in size or less, canoes, snowmobiles, jet skis, all-terrain vehicles (ATVs) and similar small and low-profile outdoor recreational equipment.

Recreational facilities, indoor, means establishments primarily engaged in the operation of such indoor activities as exercise and athletic facilities, and amusement and recreational services, such as billiard and pool halls, skating rinks, exercise and health clubs and bowling alleys.

Recreational facilities, intensive, means those recreational facilities which are intensively used and create greater impacts, such as noise, lighting and traffic impacts. Such uses may include, but are not limited to, miniature golf courses, golf driving ranges, amusement parks, stadiums, go-kart and bumper car tracks, video arcades, slides, skateboard parks, swimming pools and playing fields for soccer, baseball, softball and football.

Recreational facilities, outdoor extensive, means establishments primarily engaged in the operation of large scale, low impact outdoor recreational facilities, including, but not limited to, hunting, fishing and riding clubs, golf courses and tennis courts.

Recreational vehicle means a vehicle which is designed, intended and used for the purposes of temporary living accommodation for recreation, camping and travel use, including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes, horse trailers and bus campers. For the purposes of this definition, neither a pop-up trailer nor a truck topper accessory (also known as a camper shell) which is not higher than eight inches above the truck cab when installed shall be considered a recreational vehicle. A horse trailer used primarily for transport of horses and/or livestock to or from the site it is stored upon shall not be considered a recreational vehicle under this definition.

Recreational vehicle/equipment, boat and personal vehicle storage, means an unenclosed area for the purpose of storing non-commercial recreational vehicles, recreation equipment (ATVs, jet skis, trailers) boats or personal vehicles (cars and trucks).

Recreational vehicle (RV) park means any lot of land upon which two or more recreational vehicle or tent sites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation or vacation purposes.

Recyclable material means reusable material, including, but not limited to, metals, glass, plastic and paper, which are intended for reuse or reconstitution for the purpose of using the altered form. The term "recyclable material" shall not include refuse or hazardous materials or the processing of recyclable materials.

Recycling and collection center means a facility used for the collection and/or processing of reusable material, including, but not limited to, metals, glass, plastic and paper.

Redevelopment District means all land located within the boundaries of the urban renewal area of the city, as it may be amended from time to time by the city council.

Refuse (see *Junk*).

Refuse transfer station means a facility for the purposes of separation, aggregation and/or compaction of solid waste prior to delivery to a landfill.

Register means a locally maintained list of properties designated as historic.

Rehabilitation center means a facility which provides treatment and care of persons in need of therapeutic and rehabilitative counseling for alcoholism and/or drug addiction, mental condition or illness, or social or behavioral problems, and which treatment may be on a 24-hour basis.

Rehabilitation center, outpatient, means a facility which provides treatment and care of persons in need of therapeutic and rehabilitative counseling for alcoholism and/or drug addiction, mental condition or illness, or social or behavioral problems, and which treatment shall occur on an outpatient basis with no overnight care or treatment permitted at the facility.

Rental equipment store means an establishment with the primary purpose of renting equipment, tools and supplies to the public, including, but not limited to, the rental of equipment and tools for construction, moving, floor and carpet care, lawn, garden, home and business; equipment for special events; and moving trucks and trailers.

Replica means any reconstruction or recreation of any buildings, structures or other resources deemed to be of historic importance by the historic preservation commission.

Research or testing laboratory means a building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Residential complex, subdivision or residential identification sign means an on-site sign that identifies a specific residential complex or subdivision.

Restaurant means an establishment whose primary business is the preparation and serving of food to the public.

Restaurant, drive-in or drive-through, means an establishment where food and/or beverages are sold to the customer for consumption within the interior of the building, within exterior dining areas or off the premises by order from vehicular passengers, where the product is delivered to the car and which includes a menu board, audio or video speakers and pick-up windows.

Restaurant, pick-up or take-out, means an establishment where food and/or beverages are sold in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the restaurant, where ordering and pickup of food may take place from an automobile and which does not include a menu board and audio or video speakers.

Restaurant, standard, means any establishment whose principal business is the sale of foods and/or beverages to the customer and whose design or principal method of operation includes one or all of the following characteristics:

(1) Customers, normally provided with an individual menu, are served their foods or beverages by a restaurant employee at the same table or counter at which the items are consumed.

(2) A cafeteria-type operation where foods and beverages are consumed within the restaurant building.

(3) A walk-up window or counter for the ordering and/or pick-up of food to be consumed on- or off-premises.

Restoration, as used in article III of chapter 8 of this title, means the reconstruction and repair of a building or structure, or portions of a building or structure, to the condition that existed prior to damage sustained to the building or structure. For the purposes of historic preservation, the term "restoration" means the reconstruction and repair of a building's or structure's original architectural features.

Retail, large use, means a retail use, or any combination of retail uses in a single building, occupying more than 40,000 square feet of gross floor area.

Retail sales means the business of selling products directly to the ultimate consumer for any purpose other than for resale.

Right-of-way means a right granted by a property owner and which is intended to be occupied by a street, sidewalk, railroad, utilities and other similar uses.

Riparian zone means an area where the presence of a surface and/or high subsurface water level permits the existence of increased vegetative diversity and abundance as contrasted to surrounding areas.

Roof sign means a sign that is mounted on the roof of a building or structure such as a portico which is wholly dependent upon a building for support and which projects above the parapet of a building with a flat roof, or above the peak of the roof of that portion of the roof on which the sign is placed.

Runway means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

Satellite earth station antenna means a reflective surface configured in the shape of a shallow dish, cone, horn or cornucopia which shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses, including, but not limited to, satellite earth stations, television reception only satellite dish antennas and satellite microwave antennas.

Scale means the proportional relationship of the size of a building or structure to its surroundings.

Scenic easement means an easement intended to preserve a view or scenic area.

School means any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge.

School, adult, means a public or private school primarily teaching useable skills to adults, including, but not limited to, business, vocational, driving and trade courses.

School, compulsory, means any public or private elementary, junior high or high school licensed by the state and which meets state requirements for providing compulsory education.

Screening means a method of reducing the impact of visual and/or noise intrusions through the use of plant materials, berms, fences and/or walls, or any combination thereof intended to block that which is unsightly or offensive with a more harmonious element.

Searchlight, strobe light or beacon, means a stationary or revolving light that flashes or projects illumination, single color or multicolored, in any manner that is intended to attract or divert attention; excluding any device required or necessary under the safety regulations described by the Federal Aviation Administration or similar agencies.

Seasonal use means a use intended for a period of limited duration, including, but not limited to, the sale of seasonal goods and products such as pumpkins, Christmas trees, produce and living plants.

Secondary dwelling (see *Dwelling, secondary*).

Secretary of the Interior's Standards means the Secretary of the Interior's Standards for the Treatment of Historic Properties, in 36 CFR pt. 68, which governs alterations to historic properties listed in the National Register of Historic Places. The standards, which pertain to the exterior and interior of historic buildings, deal with design, methods of construction and materials and define preservation, rehabilitation, restoration and reconstruction as treatments. This reference shall always refer to the current standards and definitions, as amended.

Setback means the minimum distance a building, structure or use may be erected from a street, alley or property line. Setbacks are also called required yards.

Setback, front, means the area extending across the full width of the lot, between the front lot line and the nearest line or point of the area allowed for construction or establishment of the building, structure or use.

Setback, interior side, means the area extending from the front yard to the rear yard, between the side lot line adjacent to another lot and the nearest line or point of the area allowed for construction or establishment of the building, structure or use.

Setback, oil and gas (see chapter 18 of this title).

Setback, rear, means the area extending across the full width of the lot between the rear lot line and the nearest line or point of the area allowed for construction or establishment of the building, structure or use.

Setback, side, means the area extending from the front yard to the rear yard, between the side lot line and the nearest line or point of the area allowed for construction or establishment of the building, structure or use.

Setback, street side, means the area extending from the front yard to the rear yard, which separates the lot from an adjacent street.

Shade tree means a deciduous tree planted primarily for its high crown of foliage or overhead canopy and which typically reaches a height of at least 40 feet.

Shrub means a woody plant which consists of a number of small stems from the ground or small branches near the ground and which may be deciduous or evergreen.

Sidetracking means entering the same wellhead from the surface, but not necessarily following the same well bore, throughout its subsurface extent when deviation from such well bore is necessary to reach the objective depth because of an engineering problem.

Sidewalk means a paved, surfaced or leveled area, paralleling and usually separated from the street, used as a pedestrian path.

Sight distance (see *Clear vision area or zone*).

Sign means any device, surface, object, structure, building architecture or part thereof using graphics, symbols or written copy for the purpose of advertising, identifying or announcing or drawing attention to any establishment, product, goods, facilities, services or idea, whether of a commercial or noncommercial nature.

Sign allowance means the amount of signage that is allowable under the provisions of this article.

Sign alteration means any change of copy (excluding changeable copy signs), sign face, color, size, shape, illumination, position, location, construction or supporting structure of any sign.

Sign area means the entire face of a sign and any backing, frame, trim or molding and which may include the supportive structure.

Sign backing means the surface, pattern or color of which any sign is displayed upon, against or through and that forms an integral part of such display and differentiates the total display from the background against which it is placed.

Sign, exposed incandescent or high intensity discharge lighting, means any sign or portion of a sign that utilizes an exposed incandescent or high intensity lamp, with the exception of neon, in such a fashion as to project light directly onto adjoining property or right-of-way.

Sign face means the area of a sign on which the copy is place, or, for individual cutout letters, painted letters, channel letters or symbols, the perimeter of the individual elements shall be considered the area of the sign.

Sign frame means a sign cabinet or that portion of the sign that holds the sign face in place.

Sign, for sale or for rent, means a sign indicating the availability for sale, rent or lease of the specific lot, building or portion of a building upon which the sign is erected or displayed.

Sign, ground, means a type of freestanding sign which is erected on the ground and which contains no free air space between the ground and the top of the sign.

Sign height means the vertical distance measured from the grade, as defined herein, to the highest point of the sign or sign structure.

Sign, interior to a building, means signs inside buildings that are not legible from the public right-of-way.

Sign, interior to development, means any sign that is located so that it is not legible from any adjoining property or the public right-of-way and not oriented in such a way as to attract the attention of those traveling along the right-of-way.

Sign permit means a permit issued by a building official and which is required for any sign specified under section 24-1331.

Sign, political, means a sign relating to public elections.

Sign, public phone, means a sign identifying the phone's location and limited to the term "phone" and/or an illustration of a phone.

Sign separation means the distance or spacing between individual signs, whether they are on the same structure or on separate structures, as measured by a straight line.

Sign setback means the minimum distance required from the apparent centerline of the right-of-way, to any portion of a sign or sign structure.

Sign structure means the supports, uprights, bracing or framework of any structure for the purposes of displaying a sign.

Sign, wall, means a sign attached parallel to and extending less than 20 inches from the wall of a building. The definition of the term "wall sign" includes painted, individual letter, cabinet signs and those signs located on the roof of a building which are not roof signs as defined herein.

Sign, window, means any type of sign that is painted or attached to or within 12 inches of any exterior window.

Sign, within building, means any sign that is not visible from the public right-of-way or is more than 12 inches from the interior side of a window.

Significant (biologically) means wildlife or habitats that, because of their relative attributes, deserve greater consideration in resource management decisions. Relative attributes may include:

(1) Species that have state and/or federal listing as endangered/threatened or have standing as species of special concern;

(2) Species with restricted distributions or highly specific habitat requirements;

(3) Species that are representative of a particular habitat type;

(4) Indicator species, whose physical presence denotes the presence of other species or environmental conditions not readily observed; or

(5) Species with economic value or possessing traits that are of particular interest to humans.

Significant habitat means an area which is necessary for maintaining viable local populations of organisms.

Silo means a building or structure designed and intended for the bulk storage of grains.

Single-room occupancy facility (SRO) means a facility which provides a single room intended for living purposes for one or two persons per room, offered on a weekly tenancy basis or longer, in which sanitary facilities are provided within the units and cooking facilities may be shared within the facility.

Site plan means a plan showing the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land.

Site specific development plan means and be limited to final subdivision plats or minor subdivision plats as approved pursuant to chapter 4 of this title; final PUD site plans as approved pursuant to article II of chapter 8 of this title; and use by special review and design review site plans as approved pursuant to article III of chapter 4 of this title. Conditions placed on site specific development plans shall be met within the time period such plans are considered vested.

Sky dancers means freestanding tubes which often simulate the shape of a person into which air is forced to inflate and animate and which do not characterize a commercial message or contain a message.

Slope means the ratio between elevation change to horizontal distance, expressed as a percentage.

Special flood hazard area (SFHA) means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year; i.e., the 100-year floodplain.

Special review, use by, means a public review process used to determine if a proposed use, allowed only with special review approval, can be conducted without substantially interfering with the objectives of this Development Code and which shall be compatible with existing uses.

Species, endangered, means those species of wildlife and plants which have been identified and listed by the U.S. Fish and Wildlife Service as endangered.

Species, indicator, means those species of wildlife and plants which can be used to gauge or measure the quantity and/or quality of a particular type of habitat.

Species of special concern means those species of wildlife and plants which the state division of wildlife has identified and listed as state species of special concern.

Species, sensitive, means those species of wildlife and plants which have specialized habitat needs or species that require habitat that is available only in limited quantity, or those species that are sensitive to noise or other types of disturbances which are usually caused by humans.

Species, threatened, means those species of wildlife and plants which have been identified and listed by the U.S. Fish and Wildlife Service as threatened.

Stable, commercial, means a structure or use for the keeping, boarding and/or training of horses, ponies, llamas, mules or other animals which may be used for riding purposes, for compensation and which may include an arena.

Stable, private, means an accessory structure or use for the keeping, boarding and/or training of horses, ponies, llamas, mules or other animals which may be used for riding purposes, for the use of the occupants of the premises.

Stacking space means an area for motor vehicles to line up in while waiting to go through a drive-thru facility, a designated passenger drop-off/pick-up area or a parking lot or area.

Start of construction, as used in article III of chapter 8 of this title, shall include substantial improvement and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; the installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms; or the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Stormwater management plan means a plan for the management of stormwater drainage and control prepared in conformance with the regulations for stormwater management, adopted by the state department of public health and environment; and further, including a plan for erosion and sediment control pursuant to the requirements of chapter 12 of title 3 of this Code, including its references.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and the ceiling above it.

Street means a way for vehicular, pedestrian or bicycle traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

Street, arterial, means those streets that permit relatively unimpeded traffic movement throughout the city and connecting to outside communities.

Street, arterial major, means those arterial streets which generally carry traffic volumes greater than 20,000

vehicles per day when the property which the arterial street serves is fully developed and which permit rapid and relatively unimpeded traffic movement throughout the city, connecting major land use elements as well as connecting to outside communities.

Street, arterial minor, means those arterial streets which generally carry traffic volumes greater than 10,000 vehicles per day when the property which the arterial street serves is fully developed and which permit relatively unimpeded traffic movement and are intended for use on routes where four moving lanes and one turn lane are required but where a major arterial cross-section is not warranted.

Street, collector, means those streets that collect and distribute traffic between arterial and local streets and serve as main connectors within the city, linking one neighborhood with another and which carry traffic with an origin or destination within the community.

Street, collector major, means those collector streets which generally carry traffic volumes greater than 7,000 vehicles per day when the property which the collector serves is fully developed and which permit relatively unimpeded traffic movement and are intended for use on those routes where four moving lanes are required but where a larger classified street is not warranted.

Street, collector minor, means those collector streets which generally carry traffic volumes up to 7,000 vehicles per day and collect and distribute traffic between arterial and local streets and which serve as main connectors within communities, linking one neighborhood with another.

Street, local, means those streets that provide direct access to adjacent property and which carry traffic with an origin or destination within the immediate neighborhood.

Street, local low volume, means those local streets which carry traffic volumes of up to 500 vehicles per day and which provide direct access to adjacent property.

Street, local standard I residential, means those local streets which carry traffic volumes of up to 1,000 vehicles per day and which provide direct access to adjacent property.

Street, local standard II commercial/industrial, means those local streets which carry traffic volumes of up to 5,000 vehicles per day and which provide direct access to adjacent property.

Street, private, means a private roadway used to provide vehicular and emergency access.

Street tree means a tree planted in close proximity to a street in order to provide canopy over the street to provide shade and soften the street environment.

Streetscape means the scene that may be observed along a street, including both natural and non-natural components, including vegetation, buildings, paving, plantings, lighting fixtures and miscellaneous structures.

Streetscaping means rehabilitation, preservation and beautification of those exterior elements of a designated property which are visible from a street, including elements and landscaping within a front or street side setback and/or the public right-of-way.

Stringer means a strip of vegetation that extends into another type of vegetation, creating an edge effect and providing a movement corridor for a variety of wildlife species.

Structure means anything constructed or erected on or in the ground, the use of which requires a more or less permanent location on or in the ground, and, including, but not limited to, walls, retaining walls, fences, parking lots, parking slabs and oil and gas production facilities.

Structure, for the purposes of article III of chapter 8 of this title, means an object, including a mobile object, constructed or installed by humans, including, but not limited to, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.

Subdivider or developer means any person, partnership, joint venture, association or corporation or other legal entity who or which shall participate as owner, promoter, designer, builder or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision.

Subdivision means the division of a lot, tract or parcel of land into two or more lots, tracts or parcels, or other division of land in compliance with the requirements of chapter 4 of this title.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

Substantial improvement, as used in article III of chapter 8 of this title, means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. The term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local enforcement official and which are the minimum necessary to ensure safe living conditions; or

(2) Any alteration of an historic structure, provided that the structure's designation as an historic structure remains.

Symbol means a graphic device which stands for a concept or object.

Temporary sign means any sign, not intended for permanent installation such as, but not limited to, a banner, balloon, pennant, searchlight or beacon. Generally, these signs are intended to be used for a limited period of time or for a purpose announcing a special event or presenting other miscellaneous or incidental information or instructions.

Temporary structure means a structure without any foundation or footings and which is intended to be removed at some point in the future.

Temporary use means a use which shall generally be permitted to exist and be operated for no longer than 90 days in 12 consecutive months and which may occur as an accessory or principal use.

Theater means a building, or a part thereof, devoted primarily to the showing of motion pictures or for entertainment or cultural events.

Theater, drive-in, means a site devoted primarily to the showing of motion pictures or theatrical productions to patrons seated in automobiles and which may include facilities for the sale of food and/or beverages to patrons.

Threshold planning quantity (TPQ) means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the state that such facilities are subject to emergency planning requirements.

Time or temperature sign means a sign or portion thereof on which the only copy that is capable of being changed is an electronic or mechanical indication of time and/or temperature.

Towers, communication and utility, means a structure for transmitting or receiving radio, television, microwave and/or electromagnetic impulses or waves.

Town house dwelling means a dwelling in a building which contains two or more dwellings, each of which is individually-owned along with the land area which constitutes the lot on which the townhouse dwelling is situated. To qualify as a townhouse dwelling, the structure must comply in all respects with applicable building codes and each dwelling unit must be separated by a fire wall, if required by applicable city codes.

[GRAPHIC - Townhouse or attached single-family units]

Tract means a unit of land platted in a subdivision for a specific purpose which shall be shown on the face of the plat. A specific purpose may include, but is not limited to, drainage areas, stormwater detention or retention areas, parks, open space or land areas reserved for other public facilities. The term "tract" shall be used interchangeably with outlot.

Transition means a visual effect used on an electronic message display to change from one message to another.

Transitional surface means those surfaces which extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of

the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

Transportation facilities means the offices and vehicular storage areas of those establishments engaged in providing transportation for the public.

Transportation facilities, high impact, means those establishments engaged in providing transportation for the public by means which create higher impacts such as noise and vibration and, including, but not limited to, railroads, rapid transit and light rail.

Transportation facilities, low impact, means those establishments engaged in providing transportation for the public through such low impact means as taxis, buses and trolleys.

Travel trailer or *recreational vehicle* means a portable structure, mounted on wheels and designed to be towed by a motor vehicle, or propelled by its own motive power, that may contain cooking or sleeping facilities and is intended to provide temporary living quarters for recreational camping or travel. A travel trailer also does not comply with either the National Manufactured Housing Construction and Safety Standards Act of 1974 or the uniform building code standards. Travel trailers are not permitted in residential zones as living quarters except as guest quarters for no longer than seven consecutive days.

Tree means a large woody plant having one or several self-supporting stems or trunks and numerous branches and which may be deciduous or evergreen.

Truck or freight terminal means an area and/or building where trucks load and unload cargo and freight and where such cargo and freight may be separated or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation and/or for storage.

Twinning means the drilling of a well adjacent to or near an existing well when the well cannot be drilled to the objective depth or produced due to an engineering problem, such as a collapsed casing or formation damage.

Unreasonable economic hardship, for the purposes of this article, means severe economic impact to the property as determined on a case-by-case basis by the historic preservation commission.

Use means the type of activity for which land or a building or structure is designated, arranged or intended and also means the activity which regularly takes place upon the land or in a building or structure on the land. Not all uses shall be considered legal or permitted uses.

Use by special review (see *Special review*).

Use, illegal, means a use that is not permitted by the zoning district regulations.

Use, permitted (see *Permitted use*).

Use, principal, means the primary use of a building, structure or lot.

Utility box or pedestal means devices designed and intended to house equipment necessary for the delivery of utility services to commercial and/or industrial customers, including, but not limited to, electric transformers, switch boxes, telephone pedestals and boxes, cable television boxes, traffic control boxes and similar devices.

Utility service facility means any aboveground structure or facility, excluding buildings, which is owned by a governmental entity or any entity defined as a public utility for any purpose by the state public utilities commission, and used in connection with the reproduction, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals. This shall also include facilities which provide similar services.

Utility stand means that part of a mobile home space which is used for the placement of the utility connections.

Vacant means a site or area that is not put to any use other than gardening.

Vacation means the legal abandonment of a right granted by a property owner, which was intended for a particular purpose, such as for streets or utility lines.

Variance means a modification of the strict terms of this Development Code as provided in chapter 6 of this title.

Vehicle signs means signs which are attached to or located on licensed vehicles, trailers or semi-trailers and contain or display signage for the primary purpose of advertisement, excluding bumper stickers on the bumper and similar-sized adhesive decals.

Very high intensity use, for the purposes of chapter 11 of this title, means a use expected to have a very significant effect on adjacent properties as determined on table 24-1144.6, required buffer yards.

Vested property right means the right to undertake and complete a development and use of property under the terms and conditions of an approved site specific development plan.

Veterinary clinic or hospital means any facility which is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment and prevention of animal diseases and which may include overnight care.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures.

Wall sign means a sign attached parallel to and extending less than 20 inches from the wall of a building, fence or freestanding wall. Wall signs shall include painted, individual letter, cabinet signs and those signs located below the peak of the roof of a building which are not specifically defined as roof signs.

Warehouse means a commercial or industrial building used primarily for the storage of goods and materials.

Warehouse, self-storage, means a building or portion of a building used for the storage of goods and materials and which is available to the general public for rental for a fee. Self-storage warehouse space does not include the use of such space for manufacturing or other business purposes, other than for storage purposes of excess goods and materials, nor does it include the use of the storage space for practice or staging areas.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Weed means any ground cover or shrub which is typically not installed for the purposes of landscaping; which is not typically propagated by the horticultural or nursery trades; or which presents a particularly noxious allergenic or growth characteristic.

Well means an oil or gas well, a hole drilled for the purpose of producing oil or gas, or a well into which fluids are injected.

Well site means the areas which are directly disturbed during the drilling and subsequent operation of, or affected by production facilities directly associated with, any oil well, gas well or injection well.

Wellhead means the mouth of the well at which oil or gas is produced.

Wetlands means lands that are transitional between aquatic and terrestrial habitat, where the water table is at or near the surface, or the land is covered by water during a portion of the year. Wetlands are characterized by hydric soils, with undrained substrate; hydrophilic plant populations; standing water or deposits of leached compounds in surface soils; or high subsurface water table.

Wildlife means wild, native vertebrates (including fish), mollusks and crustaceans and any species introduced or released by the division of wildlife, whether alive or dead, including any part, egg or offspring thereof.

Wind sign (see *Pennants, Ground kites* and *Sky dancers*).

Window sign means any signage or graphics applied directly to a window or surface or any sign hanging within 12 inches of the interior surface of a window, or which is clearly evident through a window and oriented to attract the public onto the premises.

Wireless telecommunication facility means a pole, tower or antenna for the purposes of transmitting and receiving communication signals and shall include, but not be limited to, monopoles and towers with attached appurtenances such as microwave dishes and antennae, rooftop, wall- and ground-mounted microwave dishes and antennas.

Work vehicle means a vehicle outfitted with equipment such as, but not limited to, storage racks, hoists, cranes, vises, heavy equipment or other business and construction equipment, whether attached or removable, or which may have attached trailers carrying such work equipment. A horse trailer used primarily for transport of horses and/or livestock shall not be considered a work vehicle under this definition.

Yard means that area of a lot between the property line and the foundation of a building, structure or use. The term "required yard" means that area also described as a required setback area where construction of buildings, structures and uses is limited in placement.

Yard, front or street side, for the purposes of this article, means that portion of a lot between the primary structure and right-of-way. A yard may contain more land area than a setback area.

Zoning board of appeals (ZBA) means an official body whose principal duties are to hear appeals and where appropriate, grant variances from the strict application of the zoning regulations.

Zoning district means a classification assigned to a particular area of the city, within which zoning regulations are uniform.

(Code 1994, § 18.12.030, apps. 18-B, 18-H; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 6, 2004, § 1, 2-17-2004; Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 6, 2006, § 1, 3-7-2006; Ord. No. 01, 2007, § 2, 1-2-2007; Ord. No. 22, 2010, § 1, 6-15-2010; Ord. No. 25, 2010 § 1, 7-20-2010; Ord. No. 34, 2010, § 2, 10-19-2010; Ord. No. 44, 2011, § 1, 12-6-2011; Ord. No. 3, 2012, § 3, 1-31-2012; Ord. No. 7, 2012, § 2, 3-6-2012; Ord. No. 2, 2013, § 1, 2-19-2013; Ord. No. 30, 2015, § 1(exh. A), 8-18-2015; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017; Ord. No. 32, 2018, exh. C, 8-7-2018; Ord. No. 17, 2019, exh. B app. 18-B, 4-2-2019)

~~Chapter 18.14 Administration and Enforcement~~

~~**Sec. 18.14.010 Purpose and intent.**~~

~~This Development Code shall be the primary tool for implementing the goals, objectives and policies of the Greeley comprehensive plan, which may be referred to as the "Master Plan."~~

~~(Code 1994, § 18.14.010; Ord. 65, 2002 §1; Ord. 27, 1998 §1)~~

Sec. 24-6. General provisions.

(a) All development within the incorporated area of the city shall be consistent with the land use chapter of the comprehensive plan and other adopted city plans, including, but not limited to, the city comprehensive transportation plan and entryway master plan.

(b) This Development Code is designed to treat in one text those areas of regulation which typically address land use and development regulations and related chapters of this Development Code.

(c) No land may be subdivided or developed for any purpose which is not in conformity with the land use chapter of the comprehensive plan, the subdivision regulations and any applicable specific plan of the city and permitted by this Development Code or other applicable provisions of this Development Code.

(d) Whenever a provision of this chapter is in conflict with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or that imposing the higher standard, shall apply.

(e) Unless otherwise provided, the community development director shall have the authority to interpret the provisions of this Development Code. An appeal to such interpretation may be made to the planning commission as described in chapter 7 of this title.

(Code 1994, § 18.12.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 65, 2002, § 1, 12-17-2002)

Secs. 24-7--24-51. Reserved.

CHAPTER 2. ADMINISTRATION

Sec. 24-52. Review authorities.

The following authorities shall be involved in the administration of this Development Code as described herein:

(1) *Mayor and city council.*

a. The council shall have final decision authority for annexations, the establishment of zoning, rezonings, preliminary planned unit developments and vacations of public rights-of-way.

b. The council may impose conditions of approval as provided in this Development Code.

c. The council shall hear appeals of decisions made by the zoning board of appeals or the planning commission under the provisions of chapter 7 of this title.

(2) *Planning commission.*

a. The planning commission shall consist of seven members appointed by the mayor and city council and serve pursuant to the provisions of chapter 19-1 of the city Charter and perform the duties and functions prescribed in this Development Code.

b. The planning commission shall have final decision authority for preliminary subdivisions, final planned unit developments, uses by special review and other directed duties from the city council.

c. The planning commission may impose conditions of approval as provided for in applicable sections of this title.

d. The planning commission shall hear appeals of decisions made by the community development director under the provisions of chapter 7 of this title.

e. The planning commission shall also act as the zoning board of appeals.

(3) *Zoning board of appeals (ZBA).*

a. The zoning board of appeals shall have final decision authority for building permit refusals, enforcement actions, boundary questions, variances as provided in section 24-516 and directed duties from the city council.

b. The zoning board of appeals may impose conditions of approval as provided for in applicable sections of this title.

(4) *Community development director*.

a. The community development director shall serve as the administrative official and shall perform the duties and functions prescribed in this Development Code, including, but not limited to, reviewing proposed construction projects and other proposed land use activities to determine compliance with this Development Code; interpreting words, phrases and concepts contained in this Development Code; obtaining factual material needed for making decisions which this Development Code requires to be made; and performing other duties specifically delegated to the administrative official by other sections of this Development Code, with the assistance from other city employees assigned to the community development department.

b. The community development director shall have final decision authority for minor variances, administrative changes to planned unit developments and design review. The director may impose conditions of approval or make interpretations of this Development Code which may be appealed to the planning commission.

c. The community development director shall also be known as the enforcement official in this Development Code. The official shall be responsible for code compliance and enforcement, as provided for herein, and shall have the following authority as related to enforcement:

1. Authority to notify owners, tenants or agents in the city of violations of this Development Code and to issue orders requiring compliance within specified times not longer than six months or as otherwise provided by law.

2. Initiate ~~code infraction~~ proceedings before the administrative hearing officer to sanction persons who violate provisions of this Development Code. The issuance of a notice or order pursuant to this section shall not be a prerequisite to the initiation of any such administrative proceeding.

(5) *Administrative review team (ART).*

a. The administrative review team shall consist of representatives of city departments and other affected agencies involved with development and land use activities within the city and its long-

range planning area.

b. The ART shall perform the duties and functions provided in this Development Code.

(Code 1994, § 18.12.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 46, 2006, § 2, 10-17-2006)

Sec. 24-53. Violations, sanctions and remedies.

(a) Any and all violations of the provisions of this title shall be ~~designated as code infractions and shall be~~ subject to the sanctions ~~for code infractions~~ contained in chapter 10 of title 1 of this Code and any other sanctions permitted under law.

(b) Whenever the enforcement official determines a person is violating or failing to comply with any provisions of this title, the enforcement official may immediately issue a cessation order causing the person to immediately cease all operations which violate and fail to comply with this chapter until such person has complied with the provisions of this title. This order of cessation of activities is additional to any other penalties, sanctions or remedies otherwise allowed by law.

(c) The city may seek and obtain remedies provided by law, including, but not limited to, civil and administrative sanctions; and temporary or permanent injunctive relief against persons for noncompliance with the provisions and requirements of this title and any other relief set forth in chapter 10 of title 1 of this Code.

(Code 1994, § 18.12.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 46, 2006, § 2, 10-17-2006; Ord. No. 26, 2011, § 1, 9-6-2011; Ord. No. 44, 2011, § 1, 12-6-2011)

Sec. 24-54. Construction permit requirements.

(a) *Application*.

(1) A construction permit shall be required prior to any construction or installation of new public infrastructure or new private improvements within the public rights-of-way, perimeter landscaping treatment or common area improvements, as shown on the public improvement construction plans, final plat, final site plan and/or final landscape plan reviewed, accepted and signed by the city. The construction permit shall be required to initiate the transition from completion of the development review process to the beginning of the construction process. This construction permit shall only be issued after all project plans and documents noted herein are finalized and accepted by the city.

(2) No work shall be permitted to occur within the existing rights-of-way, proposed rights-of-way, public easements or defined common areas until the developer obtains an approved construction permit or permits if construction will occur in phases. If work commences in any rights-of-way, easements or common areas without a construction permit, a stop-work order will be issued by the department of public works and the developer/contractor shall be subjected to additional construction permit fees.

(3) For projects under the development review process, the construction permit application and acceptance process shall be made a part of the review process. For projects where the development review and acceptance process have been completed without being part of the development review process, a construction permit shall be required prior to any of the construction improvements subject to this section.

(b) *Submittals*. A complete application for the construction permit shall include the following items:

(1) A copy of the approved site plan (8 1/2 inches by 11 inches minimum size).

(2) Signed and accepted construction plans, the number of copies to be determined by the city.

(3) Proposed project schedule.

(4) Project quantities and cost estimates for all public improvements and private improvements in the public right-of-way, perimeter landscaping treatment or common area improvements to be constructed, as well as any other improvements that are required to be inspected by the city. These quantities and costs are to be submitted in an electronic spreadsheet, format and file as approved by the city.

(5) Applicable construction permit fee.

(6) Additional items as may be required (case-by-case basis).

(7) Application signed by the developer and licensed contractor.

(8) Financial guarantee type.

(c) *Construction coordination meetings.* A construction coordination meeting shall be conducted by the city staff to meet with the involved parties, to review the plans and schedule, to exchange information about the project, to help establish communication lines, and to discuss key issues about the project.

(1) The initial construction coordination meeting, including review of proposed grading operations, shall be scheduled by the city.

(2) The initial construction coordination meeting shall be based on the receipt of the following items, as determined by the city, which shall be completed and received by the city a minimum of five working days prior to the anticipated meeting date.

a. Completed application per subsection (b) of this section.

b. Mylars of public improvement plans, final plat, final site plans and/or final landscape plans, the number of copies to be determined by the city.

c. Easement/right-of-way documents submitted for recording.

d. Development agreement as reviewed by and agreed to by the developer and the city. The development agreement shall be executed prior to final plat approval.

e. Approved final plat.

f. Traffic control plan.

g. Phasing plan.

(3) The following persons are encouraged to attend the construction coordination meeting:

a. Developer's construction manager.

b. Civil designer.

c. Developer.

d. Developer's architect and/or land planner.

e. General contractor or representatives for each contractor if no general contractor.

f. Subcontractors.

g. Appropriate city staff, including, but not limited to, development coordinator, public works, community development, water/sewer and park.

h. Utility representatives.

(d) *Completion requirements.* In conjunction with the construction permit application process and construction coordination meeting, the following shall be completed and submitted to the city prior to issuance of the construction permit:

(1) Public improvement construction plans, final plat, final site plan and/or final landscape plan, including one Mylar copy and the appropriate number of copies as determined by the city.

(2) Development agreement signed by the developer.

(3) Cost estimates as required by the city.

(4) Plat filed with county clerk and recorder's office.

(5) Construction traffic control plan submitted and approved by the city.

(6) Revised schedule to reflect results of construction coordination meeting.

(7) Erosion control plan.

(8) Additional requirements of the permit.

(9) Development construction phasing plan submitted and approved by the city.

(e) *Expiration and extension*. Any construction permit issued shall be void if construction work subject to the permit does not commence within 180 days from the date of issuance of the permit. If no construction subject to the permit occurs within 180 days of issuance of the permit, the permit fee is forfeited and from the date of original issuance, reapplication for a new permit is required. The permittee may apply for a permit extension or renewal, in writing, prior to expiration of the permit. Any permit extended and/or renewed is valid for a period of one year from the date of original issuance, expressly subject to all other permit period requirements of this Development Code's rules and regulations.

(f) *Performance and warranty requirements*. All public improvement infrastructure, perimeter landscaping treatment improvements and common area improvements are hereby required to provide a two-year warranty period covering design and construction defects. The two-year warranty period shall commence after completion of the improvements and initial acceptance of the improvements by the city, said period commencing upon the issuance of the certificate of substantial completion by the city. All maintenance shall be as stated and in accordance with the approved development agreement for the property.

(Code 1994, § 18.04.1195; Ord. No. 44, 2002, § 1, 6-25-2002; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-55. Financial guarantee requirements during construction warranty period.

(a) *Construction warranty required at construction permit stage*. As a requirement for the initial construction permit, the applicant is hereby required to furnish a financial guarantee to the city to ensure that all construction subject to the permit is covered by the two-year warranty period.

(b) *Type of construction warranty financial guarantee*. The construction permit applicant may, at the applicant's option, provide the two-year construction warranty financial guarantee in the following forms only:

(1) A warranty bond in the amount of 20 percent of the total construction cost of the improvements subject to the permit.

(2) A letter of credit in the amount of 20 percent of the total construction cost of the improvements subject to the permit.

(3) A nonrefundable cash payment in the amount of one percent of the total construction cost of the improvements subject to the permit.

(c) *Construction financial guarantee in the form of a cash payment*.

(1) *Amount of cash payment*. The amount of the nonrefundable cash payment shall be one percent of the total construction costs of the construction of the entire development as shown on the approved plat. The nonrefundable cash payment is deemed to be an administration fee and is not intended nor shall be construed as creating any type of insurer/insured relationship and/or subjecting the city to the provisions of C.R.S. title 10.

(2) *Cash payment due*. The cash payment shall be made at the time of the initial construction permit application.

(3) *Cash payment in addition to construction permit fees*. The cash payment for the two-year warranty is in addition to any and all other required construction permit fees.

(4) *Phasing of improvements*. The applicant may, subject to the city's sole discretion, obtain the required construction permit in clearly defined, logical phases and remit the required payment prior to construction of each phase.

(5) *Construction cost estimates*. The estimated cost of the improvements, subject to the construction permit, shall be furnished by the developer. The estimated costs shall be reasonable, and the city retains the option of determining the estimates, in its sole discretion.

(6) *Use of cash payments*. During the two-year warranty period, the use of all cash payments received shall be restricted for the repair, replacement, completion and maintenance of all improvements subject to the

construction permit, including, but not limited to, detention facilities, perimeter landscaping and open space.

(7) *Return of cash payments*. No portion of any cash payment received shall be returned to the permittee, whether utilized by the city or not.

(8) *Replenishment of cash payment amount*. If the city, in its sole discretion, utilizes any or all of the cash payments received to repair, replace and/or complete any construction items contained within the construction permit during the two-year construction warranty period, the permittee shall replace that amount used prior to being issued any new construction permits, either for the affected specific project or any other projects in which the permittee has an interest. This replenishment requirement is not restricted to the permit issued to the original subdivision, any other phase of the original subdivision or any new subdivision or construction permits. If repayment is not made, the city may pursue other methods of recovery.

(9) *Annual review*. At least once each year, the city engineer shall review the use of all cash payment funds received by the city pursuant to this section. After review, the city engineer shall report the status of, and make recommendations to the city manager and city council regarding, the cash payment fund, including, but not limited to, recommendations to transfer a portion or all of the fund balance to the general fund.

(d) *Construction financial guarantee in noncash payment options*. Except for the payment of cash, the provisions of subsections (c)(2) through (c)(6) of this section hereby apply to the warranty, bond and letter of credit payments.

(e) *Construction warranty period*. The term "construction warranty period" is hereby defined to be two years from the issuance of a substantial completion certificate. The request for the substantial completion certificate may be initiated by the city or the developer but, in all cases, is the sole responsibility of the developer.

(1) *Initial inspection of completed improvements*. Upon receiving the request for a substantial completion certificate and prior to accepting any building permits, the city shall inspect the completed improvements for compliance with approved standards and issue a punch list of repairs if needed. The lack of any punch list items does not relieve the permittee from any responsibilities for repairs/replacements which may develop due to inadequate design, workmanship or materials during the two-year warranty period. This initial inspection will be used to determine the limitation of responsibilities, if any, of the permittee. If there are no significant deficiencies, a certificate of substantial completion will be issued, subject to any and all requirements of the inspection.

(2) *Intermediate inspection of completed improvements*. Prior to the expiration of the two-year warranty period, the city may schedule, in its sole discretion, an intermediate inspection of the completed improvements to determine if any repairs/replacements are required. This intermediate inspection, if scheduled, shall occur no later than 120 days prior to the expiration date of the construction warranty period. Any repairs/replacements identified must be completed prior to the final inspection.

(3) *Final inspection of completed improvements*. 30 days prior to the expiration of the two-year warranty period, the city will schedule a final inspection of the completed improvements. If there are no significant problems, a final acceptance certificate will be issued, at which time the city accepts the completed improvements and relieves the permittee of any further responsibilities. If there are significant repairs/replacements unresolved, the city will require the permittee to complete the repairs/replacements, or the city, at the city's option, may utilize the financial guarantee provided to construct the needed repairs/replacements.

(f) *Reduction of financial guarantees*. If the permittee has provided a noncash payment form of financial guarantee, that financial guarantee may be reduced up to 50 percent after the required improvements have been completed and inspected and a certificate of substantial completion has been issued, in the city's sole discretion.

(g) *Extension of two-year construction warranty period*. In the city's sole discretion, the initial two-year construction warranty period may be extended at the permittee's sole cost and expense if major items have not been repaired/replaced to the city's satisfaction. A noncash financial guarantee may be further reduced at the end of the two-year period if the warranty period is extended.

(h) *Maintenance of completed improvements*. Upon issuance of a substantial completion certificate, the city shall assume all maintenance of the public improvements located in the public right-of-way/easements. The city's responsibility of maintenance will not relieve the developer for any repairs/replacement, including vegetation of detention facilities, during the initial two-year warranty period. Maintenance activities shall include sweeping, signage, striping, lighting, vegetation control in the public right-of-way, sanitary sewer cleaning and water system maintenance. Upon issuance of the substantial completion certificate, the city will assume maintenance of drainage detention facilities, with the exception of vegetation requirements.

(i) *Developments in process*. Any development that is in process of review at the time the initial ordinance codified herein becomes effective is hereby exempt from the provisions of this section until December 31, 2002, after which time all nonpermitted construction developments shall be subject to this section, whether in-process or not. The term "in-process" is defined as being at the final construction drawing review stage.

(Code 1994, § 18.04.1196; Ord. No. 44, 2002, § 1, 6-25-2002; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 14, 2003, § 1, 3-18-2003; Ord. No. 11, 2007, § 1, 4-3-2007)

Sec. 24-56. Initial and final acceptance procedures; warranty requirements and procedures.

(a) *General*. This section defines the requirements for initial and final approval and acceptance of public improvements and private improvements in the public right-of-way, perimeter treatment and common area improvements performed within those rights-of-way and easements, as well as the warranty and as-built record drawing requirements.

(b) *Permittee's process*. The permittee is hereby required to meet the following process prior to acceptance of the public improvements and private improvements in the public right-of-way, perimeter landscaping treatment and common area improvements:

(1) *Initial acceptance (certificate of substantial completion)*.

a. Completion of all public improvements required in the development agreement and/or public improvement construction plans (plans), final plat, final site plan and/or final landscape plan and agreements in accordance with applicable city standards.

b. Notification to the city of the completion of the public improvements and private improvements in the public right-of-way, perimeter landscaping treatment or common area improvements and request for a certificate of substantial completion. The city may also initiate this process.

c. City inspection, upon request of the permittee, of the public improvements and private improvements in the public right-of-way, perimeter landscaping treatment and common area improvements for compliance with the plans, specifications and agreements. The city shall provide a deficiency list, if necessary, after inspection.

d. The permittee shall correct all major deficiencies prior to the beginning of the warranty period.

e. The permittee shall submit signed and sealed as-built record drawings (both hard copy and electronic files), pursuant to city requirements, as amended for acceptance.

f. After receipt of a written request from the permittee, the city shall inspect the corrections, if any. Upon satisfactory completion, a certificate of substantial completion shall be issued.

g. Upon issuance of the certificate of substantial completion, the two-year warranty period shall commence.

(2) *Final acceptance (final acceptance certificate)*.

a. After the permittee has submitted a written request for the final acceptance certificate, and no more than 30 days prior to the completion of the warranty period, the city shall inspect all public improvements and private improvements in the public right-of-way, perimeter treatment or common area improvements for defects in workmanship or material. An updated deficiency list shall be developed and provided to the permittee.

b. Once the permittee has satisfactorily completed all deficiencies, a certificate of final acceptance, issued by the city, shall release the permittee from all future repairs and maintenance of the public

improvements in the public right-of-way, perimeter treatment or common area improvements.

c. The noncash financial guarantee shall be released.

(c) *Certificate of final acceptance requirements*.

(1) The city shall grant or deny the certificate of final acceptance based on inspection for compliance with the written deficiency list, which was previously provided to the permittee. If new deficiencies are found, either in quality or extent of construction, the permittee shall be notified in writing that these new deficiencies shall be corrected as a condition of final acceptance. Critical items shall be corrected prior to issuance of a certificate of final acceptance.

(2) The city shall issue written notice either granting or withholding the certificate of final acceptance within ten working days of the initial completion re-inspection. The certificate of final acceptance letter shall specify the date on which the permittee is eligible to request final acceptance. Such unaddressed or new deficiencies may result in a partial or full denial or request for reduction in the noncash financial guarantee for the warranty period.

(3) Prior to issuance of the certificate of final acceptance, as-built record drawings must have been completed, stamped and signed by the engineer or surveyor of record and submitted to the city. The as-built record drawings shall be submitted in hardcopy and electronic forms as provided in section 24-342. As-built record drawings shall be required prior to the issuance of any building permits.

(d) *Warranty requirements*.

(1) The warranty period for all public improvements and private improvements in the public right-of-way, perimeter treatment and/or common area improvements shall be two years. The warranty period shall start when the certificate of substantial completion is issued and as-built drawings are submitted and shall end with the issuance of a certificate of final acceptance of the public improvements and private improvements in the public right-of-way, perimeter landscaping treatment and/or common area improvements. If deficiencies are noted during the city's warranty inspection, the permittee shall repair the deficiencies. If approved by the city, the deficiencies may remain in place and the warranty period for the defective public improvements or private improvements in the public right-of-way, perimeter landscaping treatment or common area improvements may be extended, up to one additional year, at the permittee's sole cost and expense. Repair or acceptance of the deficiencies shall occur prior to the expiration of any such extension. A new warranty period may, at the city's discretion, be applied to any major repair work performed during the warranty period.

(2) At any time before the completion of the warranty period, the city may notify the permittee of needed repairs. If repairs are considered to be an imminent danger to the public health, safety and welfare, the contractor shall act within 48 hours to complete the repair. If the work is not considered a safety issue, the permittee has ten working days to schedule the work, and 60 calendar days to complete the work. Extensions of time may be considered when necessary due to weather constraints.

(3) If the permittee has not completed the warranty repairs in the time frame specified, the city may choose to make the necessary repairs. The city shall collect from the noncash financial guarantee or utilize the cash payment fund for the cost of the repairs.

(4) The permittee is responsible for maintaining all public improvements in the public right-of-way, including, but not limited to, sweeping and trash removal, up to the time of issuance of the certificate of substantial completion. If the permittee fails to maintain the public improvements and private improvements in the public right-of-way, perimeter landscaping treatment or common area improvements in a timely and acceptable manner, subsection (d)(3) of this section may be invoked.

(e) *Certificate of final acceptance procedures*.

(1) During the warranty period, the permittee shall guarantee the work to be free of any damage or defects in workmanship and materials. Within 30 days from the end of the warranty period, the permittee shall request final acceptance, in writing, from the city.

(2) The permittee shall be responsible for providing a clean site, including, but not limited to, appropriate

sweeping and cleaning the public improvements and private improvements in the public right-of-way, perimeter landscaping treatment and/or common area improvements prior to final inspection. If the permittee does not provide a clean site, but not limited to, having curb flowlines clear of debris and dirt and construction trash, the inspection may be postponed until the site is sufficiently clean, in the city's discretion.

(3) The city shall inspect all public improvements and private improvements in the public right-of-way, perimeter treatment or common area improvements related to the project. If applicable, a written final list of deficiencies shall be compiled, listing any necessary repair or replacement of materials or workmanship. The deficiency list shall be sent to the permittee or the permittee's representative.

(4) If the permittee can demonstrate that the city maintenance crews (i.e., snowplows) or other parties caused damage to certain improvements, the permittee shall not be held responsible for the replacement. The city reserves the right to render a final decision as to damage responsibility. The permittee shall cooperate with the city to identify the proper party to be held responsible for any replacement.

(5) If repair or replacement of public improvements and private improvements in the public right-of-way, perimeter landscaping treatment and/or common area improvements is required, the permittee shall complete the repair or replacement within 30 calendar days of receipt of the final deficiency list, unless otherwise agreed upon. Upon completion, the permittee shall contact the city for a re-inspection. A re-inspection fee may be assessed, in the city's discretion.

(6) Once all repairs or replacements are satisfactorily completed, the permittee shall receive written notice from the city that all public improvements in the public right-of-way, perimeter landscaping treatment and/or common area improvements are complete, and the city shall release the permittee from responsibility for all future repairs for the public improvements and private improvements in the public right-of-way, perimeter landscaping treatment and/or common area improvements on this project. This release is in the form of a certificate of final acceptance.

(7) Upon the satisfactory completion of the deficiency list and the receipt and acceptance of the as-built record drawings, the city shall release the noncash financial guarantee, if so provided by the permittee.

(8) If the deficiency list is not completed within the 30 days' notice, the city may withhold any further plan reviews, whether or not related to the specific development permitted, additional permits, and/or start procedures for claim against the noncash financial guarantee, or utilize the cash payment fund.

(9) Prior to the permittee transferring ownership or responsibility to homeowners, homeowners' associations or other third parties for any improvements listed in subsection (e)(6) of this section, the permittee shall provide the city 30 days' written notice. Any uncompleted work and any warranted work shall be guaranteed through a transferable instrument.

(f) *As-built record plan requirements.*

(1) The public improvement construction plans shall be updated with all design changes that occurred after plan acceptance. As-built record storm drainage drawings shall document the size and invert elevation of all pipes (including pipe class), inlets, riprap, head walls, detention pond volumes, swale cross-sections and all other storm drainage infrastructure shown on the construction plans, including those improvements located in areas outside of the public right-of-way, if appropriate. As-built record drawings shall also show all pipe and/or drainageway/swale grade percentages, pond volume, pond side slope grades, elevations of all lot corners and required minimum top of foundation elevations for each lot.

(2) Street construction as-built record drawings shall identify the street grades, actual pavement type and grade or mix type used, and roadway section; identify if the subgrade was treated (area); and document all changes to widths and lengths for streets, sidewalks, curbs and cross-pans. As-built record drawings shall identify all signage, striping and traffic signal controller locations as actually placed in the project.

(3) All new sanitary sewer lines shall be inspected by television and electronically recorded at the substantial completion stage. The electronic recording will be delivered to the city prior to the issuance of a certificate of substantial completion. The sanitary sewer lines shall be re-inspected and compared to the

previous electronic recording and shall be retained in accordance with the approved city records retention schedule.

(4) As-built record drawings shall verify other information as specifically requested by the city, including, but not limited to, significant field changes made on the final site plan and/or final landscape plan.

(5) Minor changes are not required to be included on the as-built record drawings. Minor changes include incorrect references and grade changes less than 0.1 foot.

(6) A state registered professional engineer or professional surveyor shall update and stamp the public improvement as-built record drawings and shall submit the plans to the city to receive acceptance prior to final inspection and the release of the financial guarantee.

(7) All as-built record drawings shall be submitted in an electronic and/or Mylar format.

(8) Certified record drawings of as-built conditions for the subdivision shall be submitted to and approved by all affected departments of the city. The project contractor shall certify that the project was constructed as shown on the approved construction drawings, staked in the field by the project surveyor and any field changes shown on the record drawings. The project surveyor shall certify the project was staked per the approved construction drawings, all field-verified information is correct and all field changes known to the surveyor are shown. The project engineer shall certify that they have reviewed the record drawings of as-built conditions, have verified all field changes known to them and certify that the project is in compliance with city standards as a minimum and will function as designed or better. Water and sewer requirements for as-built record drawings are provided in section 2.07 of the Water and Sewer Design Manual.

(Code 1994, § 18.04.1197; Ord. No. 44, 2002, § 1, 6-25-2002; Ord. No. 14, 2003, § 1, 3-18-2003; Ord. No. 46, 2012, § 1, 12-18-2012)

Secs. 24-57--24-85. Reserved.

CHAPTER ~~18.04~~ 3. SUBDIVISION OF LAND

ARTICLE I. GENERAL PROVISIONS

Sec. 24-86. Purpose and intent.

This chapter of the Code is intended to provide for uniform performance standards and criteria for the design and layout of subdivisions. Such standards are necessary to:

(1) Facilitate the orderly, efficient and integrated development of land;

(2) Ensure conformance of land subdivision plans with public improvement plans and programs of the city;

(3) Encourage well-planned subdivisions by establishing standards for design and improvements;

(4) Ensure fair consideration of all subdivision plans by providing uniform procedures and standards;

(5) Ensure planning for and provision of adequate public services and facilities to serve subdivisions;

(6) Prevent damage to persons and properties by regulating development in areas poorly suited for building or construction, such as flood hazard areas, geologic hazards or areas covered by poor soils; and

(7) To require all land to be subdivided through a review process.

(Code 1994, § 18.04.100; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-87. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building or structure means a detached building or structure located upon the same lot as the principal building or structure to which it is related and which is incidental to and customarily found in connection with such principal building or structure and which is not to be used for human habitation.

Administrative review team (ART) means the city staff review team consisting of representatives of city departments involved with development and land use activities within the city and its long-range planning areas.

Alley means a minor way used primarily for vehicular service access to the back of properties adjacent to a street and which is not intended to be used for primary access to a property. An alley shall not be considered a street.

Appeal means a review of a final decision by a higher authority.

Applicant means the owners or lessees of property, their agents or persons who have contracted to purchase property, or the city or other quasi-governmental entity that is proposing an action requiring review and approval by one or more of the sections in this chapter. An applicant may subsequently become the developer once approval is granted and, in this case, the terms shall be interchangeable.

Base flood means a flood having a one-percent chance of being equaled or exceeded in any year. The term "base flood" is used interchangeably with the terms "intermediate regional flood," "one-hundred-year flood," "one-percent flood" and "area of special flood hazard."

Block means a group of lots within the defined and fixed boundaries of a subdivision and usually being an area surrounded by streets or other features, such as parks, railroad rights-of-way or municipal boundary lines.

Buffer means to promote separation and compatibility between land uses of different intensities within or adjacent to a development, or along roadways or other public areas, through the use of setbacks, natural vegetation, berms, fences, walls or a combination thereof. The term "buffer" may also be used to describe the methods used to promote compatibility, such as a landscape buffer.

Building means any structure built for the shelter or enclosure of persons, animals or property of any kind, excluding fences or walls.

Building envelope means the area in which a building or structure is constructed or placed in a development and in which the land area beyond the envelope is under the common ownership of all property owners within the development.

Building, principal, means the primary building on a lot or a building that houses the principal use.

Centerline (of public right-of-way) means a line running midway between the bounding right-of-way lines of a street or alley. For the purposes of calculating signage, the term "centerline" means the apparent centerline of the road determined by finding the point midway between the outer edges of the road surface.

~~*city* shall mean the city of Greeley, Colorado.~~

~~*city manager* shall mean the city manager or the city manager's designee or other official, or body or agency, designated by the Charter or ordinance to act on behalf of the city of Greeley, Colorado.~~

Commission means the planning commission of the city.

Comprehensive plan means the comprehensive plan of the city, as provided for in the city Charter and which provides for the future growth and improvement of the community, for the preservation of historic and natural resources and for the general location and coordination of streets and highways, recreation areas, public building sites and other physical development.

Cul-de-sac means a local street of no more than 500 feet in length, with one open end and the other end terminating in a vehicular turnaround.

Dedication means setting aside property for a specific purpose, including, but not limited to, streets, utilities, parks and trails.

Development means any construction or activity which changes the basic character or use of land on which construction or activity occurs, including, but not limited to, any non-natural change to improved or unimproved real estate, substantial improvements to buildings or other structures, mining, dredging, filling, grading, paving, extraction or drilling operations.

Development concept master plan means a scoping master plan intended to illustrate future land uses and related densities and intensities, architectural intent, extensions of street systems and other public facilities and utilities.

Development or subdivider's agreement means a written instrument, for the purposes of specifying all improvements to be constructed by the subdivider, as well as the timetable for construction of such improvements, any special conditions of construction and construction cost estimates.

Dust abatement plan means a plan intended and designed to control dust during the construction or development of property.

Easement means a right granted by a property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose.

Floor area, gross, means the total area of a building measured by taking the outside dimensions of the building at each floor level, or from the centerlines of walls separating two buildings and excluding areas used exclusively for the service of the building, such as mechanical equipment spaces and shafts, elevators, stairways, escalators, ramps, loading docks, cellars, unenclosed porches, attics not used for human occupancy, or any floor space in accessory buildings or areas within the building which are intended for the parking of motor vehicles.

Legal description means a land description recognized by law, including the measurements and boundaries.

Lot means a parcel of land, established by a subdivision plat, having a minimum width of at least 20 feet which shall be located on either a public right-of-way or on a legal and perpetual access and which is occupied or designed to be occupied by one or more principal buildings, structures or uses.

Minor subdivision means a subdivision procedure that may be used for division of a parcel of land into not more than ten lots or building envelopes which are intended for residential use; or into not more than six lots which are intended for commercial or industrial use; or for the creation of lots not less than 80 acres in size, the plat of which does not propose new streets or municipal financial participation in any public improvements required as a result of said proposed plat. A minor subdivision may also be used for the aggregation of not more than ten parcels into one or more parcels, the dedication and/or vacation of easements, the division of a parcel of land into lots for existing townhouse dwellings and for adjustments in lot lines.

Oil and gas operations means exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, recompletion, reworking or abandonment of an oil and gas well, underground injection well or gas storage well; production operations related to any such well, including the installation of flowlines and gathering systems; the generation, transportation, storage, treatment or disposal of exploration and production wastes; and any construction, site preparation or reclamation activities associated with such operations.

Outlot means a tract of land platted in a subdivision for a specific purpose which shall be shown on the face of the plat. Specific purposes may include, but are not limited to, drainage areas, stormwater detention or retention areas, parks, open space or land areas reserved for other public facilities.

Parcel means a unit or contiguous units of land in the possession of, or recorded as the property of, any person, partnership, joint venture, association, corporation or other legal entity.

Perimeter treatment plan means a plan designed for the installation and perpetual maintenance of improvements intended to provide visual and noise protection for the outer edges of developments which border arterial or major collector streets. Said plan shall include materials, techniques and sizes of buffering treatments such as landscaping, fencing, screening walls, berms or a combination thereof, sufficient to provide adequate buffering. The perimeter treatment plan may be incorporated into and shown on the landscape plan.

Plat means a subdivision map or plan of property.

Plat, correction, means a plat prepared for the purposes of correcting one or more technical errors in an approved plat.

Plat, filing, means a subdivision map used in conjunction with a planned unit development, to identify the legal boundaries of a lot or grouping of lots.

Plat, final, means a completed map of a subdivision setting forth fully and accurately all legal and engineering information, survey certification and any accompanying materials as required by this chapter.

Plat, lot line adjustment, means a monumented survey illustrating existing and proposed lot lines and existing

improvements in proximity to said lot lines.

Plat, preliminary, means a proposed subdivision map and any accompanying materials as required by this chapter, which provide sufficiently detailed information so that preliminary agreement as to the form and content of the plat, within the objectives of this chapter, may be reached between the subdivider and the city.

Public improvement means any improvement required by this chapter for which the city or a quasi-public agency agrees to assume responsibility for maintenance and operation, or which may affect an improvement for which the city or a quasi-public agency is already responsible. Such facilities include, but are not limited to, streets, parks, trails, drainage facilities, water and sewer facilities, gas, electricity, telephone, cable television and other utility facilities.

Public structure, activity or purpose means a structure, activity or purpose owned or operated by a governmental agency or by a nonprofit corporation with tax-exempt status under the Federal Internal Revenue Code, if the nonprofit corporation makes the structure or facility available for the use of all members of the public without regard to membership status.

Replat means the minor subdivision procedure which may be used for boundary or lot line adjustments to legally subdivided lots, or to correct errors in surveys or plats.

Right-of-way means a right granted by a property owner and which is intended to be occupied by a street, sidewalk, railroad, utilities and other similar uses.

Stormwater management plan means a plan for the management of stormwater drainage and control prepared in conformance with the regulations for stormwater management, adopted by the Colorado Department of Public Health and Environment; and further, including a plan for erosion and sediment control pursuant to the requirements of chapter 3 of title 12 of this Code, including its references. Refer to the city's Stormwater Drainage Design Criteria Manual for additional information.

Street means a way for vehicular, pedestrian or bicycle traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

Street, arterial, means those streets that permit relatively unimpeded traffic movement throughout the city and connecting to outside communities.

Street, arterial major, means those arterial streets designed to carry traffic volumes greater than 20,000 vehicles per day when the property which the arterial street serves is fully developed, and which permit rapid and relatively unimpeded traffic movement throughout the city, connecting major land use elements as well as connecting to outside communities.

Street, arterial minor, means those arterial streets designed to carry traffic volumes greater than 15,000 vehicles per day when the property which the arterial street serves is fully developed, and which permit relatively unimpeded traffic movement and are intended for use on routes where four moving lanes and one turn lane are required but where a major arterial cross-section is not warranted.

Street, arterial parkway multi-modal, means those streets designed to carry traffic volumes greater than 35,000 vehicles per day when the property which the arterial street serves is fully developed and which permit rapid and relatively unimpeded traffic movement regionally and throughout the city, with emphasis on multi-modal connections.

Street, collector, means those streets that collect and distribute traffic between arterial and local streets and serve as main connectors within the city, linking one neighborhood with another and which carry traffic with an origin or destination within the community.

Street, collector major, means those collector streets designed to carry traffic volumes greater than 10,000 vehicles per day when the property which the collector serves is fully developed, and which permit relatively unimpeded traffic movement and are intended for use on those routes where four moving lanes are required but where a larger classified street is not warranted.

Street, collector minor, means those collector streets designed to carry traffic volumes greater than 3,500 vehicles per day, which collect and distribute traffic between arterial and local streets and which serve as main connectors within communities, linking one neighborhood with another.

Street, local, means those streets which provide direct access to adjacent property and which carry traffic with an origin or destination within the immediate neighborhood.

Street, local commercial/industrial, means those local streets designed to carry traffic volumes of up to 5,000 vehicles per day and which provide direct access to adjacent property.

Street, local low volume, means those local streets designed to carry traffic volumes of up to 500 vehicles per day and which provide direct access to adjacent property, serving large residential lots with a minimum lot size of two acres.

Street, local major, means those local streets designed to carry traffic volumes greater than 1,500 vehicles per day and which provide parking, bike lanes and direct access to adjacent property.

Street, local residential means those local streets designed to carry traffic volumes of up to 1,500 vehicles per day and which provide direct access to adjacent property.

Structure means anything constructed or erected on the ground, the use of which requires a more or less permanent location on the ground and, including, but not limited to, walls, retaining walls, fences, parking lots, parking slabs and oil and gas production facilities.

Subdivider or *developer* means any person, partnership, joint venture, association or corporation, or other legal entity who or which shall participate as owner, promoter, designer, builder or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision.

Subdivision means the division of a lot, tract or parcel of land into two or more lots, tracts or parcels, or other division of land in compliance with the requirements of this chapter.

Townhouse dwelling means a dwelling in a building which contains two or more dwellings, each of which is individually owned, along with the land area which constitutes the lot on which the townhouse dwelling is situated. To qualify as a townhouse dwelling, the structure must comply in all respects with applicable building codes and each dwelling unit must be separated by a fire wall, if required by applicable city codes.

Tract means a parcel of land intended to be further subdivided before development at some point in the future, but which may be initially created as tracts through a subdivision process.

Use means the type of activity for which land or a building or structure is designated, arranged or intended and also means the activity which regularly takes place upon the land or in a building or structure on the land. Not all uses shall be considered legal or permitted uses.

Vacation means the legal abandonment of a right granted by a property owner, which was intended for a particular purpose, such as for streets or utility lines.

(Code 1994, § 18.04.110; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-88. Application and jurisdiction of regulations.

(a) The provisions set forth in this chapter shall apply to the creation of two or more parcels or units of land from the physical configuration in which such parcels or units existed on the effective date of the ordinance from which this chapter was derived on April 8, 1996, and which may include a change in the ownership interest of said parcels or units of land. For the purposes of this subsection, the term "ownership interest" shall include fee simple ownership, a leasehold interest or any other interest which entitles the holders thereof to the exclusive possession and use of a parcel or unit of land for an indefinite period of time. A leasehold interest which does not require the creation of new accessways and/or easements for the purposes of providing access or service to said leasehold property shall be excluded from the application of these provisions, as provided in subsection (e) of this section.

(b) This chapter shall not apply to any lots forming all or a part of a subdivision created and recorded prior to April 8, 1996, or to any other lots which existed on April 8, 1996, unless subsequent changes are proposed to said previously created lots, in which case the applicable provisions of this chapter shall apply.

(c) No final plat of a subdivision shall be approved and accepted by the city unless it conforms to the provisions of this chapter.

(d) All plats of a subdivision of land within the city shall be filed by the city clerk and recorded only after having obtained all necessary approvals.

(e) No person shall sell or offer for sale any piece of any lot, piece, unit or parcel of land which has been subdivided without first having recorded a plat thereof in accordance with the provisions of this chapter. No person shall lease, or offer for lease, any piece of any lot, piece, unit or parcel of land without submitting a leasing plan containing a legal description, graphic illustration of the area to be leased and sign-off for the city for approval. Said leasing plan shall be recorded in the county clerk and recorder's office. Leasing plans which involve changes in access or easements shall require submittal and approval of a minor plat under the provisions of article VI of this chapter.

(f) In no event would partial annexation of a parcel of land into the city be construed to create a legal subdivided lot under this chapter.

(Code 1994, § 18.04.120; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-89. Variances.

The planning commission, upon a vote of a majority of the membership, which shall constitute a vote of four members in the affirmative, may authorize variances to section 24-336(c), 24-337 or 24-338, in accordance with the provisions of this chapter. Such variances shall not include those variances which are self-imposed or based on economic reasons, and the commission shall find that the following requirement has been satisfied in granting such variances: That by reason of exceptional topographical, soil or other subsurface conditions; by the existence of natural or cultural features on the site, including trees, watercourses, historic sites or areas or similar irreplaceable features; or other conditions peculiar to the site, development of the site would be severely restricted by the strict application of any provision of this chapter. Such variance shall not be granted if it would be detrimental to the public good or impair the intent and purposes of this chapter. The decision of the planning commission at a scheduled meeting on any application for variance shall be set forth in writing in the minutes of the commission. The resulting design shall provide the best practical solution available and shall require the least amount of variation to address the special condition. Decisions on variances by the planning commission may be appealed to the city council under the provisions of article XII of this chapter.

(Code 1994, § 18.04.130; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Secs. 24-90--24-106. Reserved.

ARTICLE II. PRE-APPLICATION CONFERENCE

Sec. 24-107. Process.

(a) The pre-application conference stage of subdivision planning is intended to be an investigatory period which precedes actual preparation of a development concept master plan, preliminary plat, final plat or minor plat by the subdivider. During this stage, the subdivider makes known his intentions to the city staff and is advised of specific public objectives related to the subject property and other details regarding platting procedures and requirements.

(b) The subdivider shall be required to meet with the community development department staff to present a general outline of the proposal, including, but not limited to:

(1) Sketch plans and ideas regarding land use, street and lot or building envelope arrangement and tentative lot or building envelope sizes.

(2) Tentative proposals regarding water supply, sewage disposal, storm drainage and street improvements.

(3) Review of application packet.

(c) Community development department staff may recommend that the subdivider conduct the pre-application conference with the administrative review team (ART) in order to obtain comments from representatives of other city agencies and offices. In such case, community development department staff shall inform the subdivider of any application and scheduling procedures of the ART and number of each item to submit.

(d) The community development department staff shall discuss the proposal with the subdivider and advise

him of procedural steps, design and improvement standards and general platting requirements. The staff shall provide the subdivider with appropriate recommendations to inform and assist the subdivider prior to preparing the components of the preliminary or minor plat and a determination of the need for preparation and review of a development concept master plan, as specified in section 24-129, prior to subsequent consideration of a preliminary or minor plat.

(Code 1994, § 18.04.200; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Secs. 24-108--24-127. Reserved.

ARTICLE III. DEVELOPMENT CONCEPT MASTER PLAN

Sec. 24-128. Purpose.

A development concept master plan is intended to provide for the conceptual planning of future land uses and related densities and intensities, architectural intent, extensions of street systems, as well as other public facilities and utilities on properties and to identify where development of such properties may be complicated by unusual conditions, such as topography, utility service or land use. A development concept master plan is a binding approval document. Though optional, the submittal of a development concept master plan is strongly encouraged and will facilitate the timely review and approval of site building permits.

(Code 1994, § 18.04.300; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-129. Application.

(a) The following items shall be required for a development concept master plan (details for contents of specific submittal items and reports and applicable number of each are available from the related department):

(1) Site analysis map as described in section 24-425(1)a through l and one 11-inch by 17-inch reduction.

(2) Area street map of existing and proposed streets and driveways within 700 feet of the site and one 11-inch by 17-inch reduction.

(3) Zoning suitability map, as described in section 24-425(2)a through f and one 11-inch by 17-inch reduction.

(4) The following supplemental reports shall also be supplied as part of the development concept master plan submittal:

a. Preliminary traffic impact analysis;

b. Preliminary drainage report and plan;

c. Preliminary utility layout and water system and sanitary sewer system preliminary hydraulic analysis;

d. Preliminary soils report;

e. Written description of setting of property (location of property with respect to compatibility with surrounding uses; location in special districts; unique aspects of property and its setting);

f. Written description of how pedestrian access and circulation will be addressed;

g. Written description of relationship of the proposed development concept master plan to goals and policies of the city's comprehensive plan;

h. Written description of proposed design concept, including identifying architectural styles and themes, building materials and color palette; landscaping, perimeter treatment, focal point and open space intent and theme; character sketches illustrating the basic roof forms, openings and materials; and reasons supporting these design proposals.

(b) The development concept master plan shall only be processed in conjunction with zoning applications, including uses by special review.

(c) Upon approval of a development concept master plan by the city council, said plan shall remain effective until and unless a revised or amended development concept master plan is submitted to the city and approved, using

the same procedures under which the original plan was approved. Minor amendments shall be considered by the planning commission as long as none of the following are proposed:

(1) There is a change in the number of lots or housing units or change in square footage of nonresidential uses of more than five percent.

(2) There are changes in street alignment and/or access points, or other public improvements, such as drainage improvements or utility lines or facilities.

(3) There are other changes in the development concept master plan which make it in nonconformance with the city's comprehensive plan.

(d) Areas shown as a tract or tracts on a development concept master plan, where such tracts are intended to be further subdivided before development in the future, shall not be required to have a written description of the proposed design concept for such areas. The details of the proposed design concept for a tract shall be required to be addressed at the time specific development plans are prepared and submitted for the tract. Otherwise, that tract will be optional in the future.

(Code 1994, § 18.04.310; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Secs. 24-130--24-156. Reserved.

ARTICLE IV. PRELIMINARY PLAT

Sec. 24-157. Purpose.

The preliminary plat stage of land subdivision is intended to provide for the detailed planning and review of a preliminary subdivision plat and related supporting documents. To avoid delay in processing the application, the subdivider shall provide the community development department staff with all information essential to determine the character and general acceptability of the proposed plat, as specified in this article.

(Code 1994, § 18.04.400; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-158. Compliance with zoning and other regulations.

The subdivision shall comply with all other city ordinances and/or requirements as added or amended and as required by the city, including the Development Code and any applicable performance options as provided in article VI of chapter 8 of this title.

(Code 1994, § 18.04.410; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-159. Preliminary plat filing.

(a) Ten copies (or as determined at the pre-application conference) of the preliminary plat and applicable number of copies of required supporting data and documents prepared in accordance with requirements as set forth in section 24-160 shall be filed with the community development department staff, along with related application fees. Additional copies of the plat and supporting data and a digital file of the plat may be requested by staff and upon request, shall be provided by the subdivider.

(b) The submittal shall be checked by community development department staff for completeness. If incomplete as to those requirements set forth in section 24-160, the submittal shall be returned and the subdivider notified in writing.

(c) The information required as part of the preliminary plat submittal shall be shown graphically or by note on plans and may comprise several sheets showing various elements of required data. All mapped data for the same plat shall be drawn at the same engineering scale, said scale having not more than 100 feet to one inch, and shall be provided on drawings measuring 24 inches by 36 inches.

(d) Community development department staff shall process and coordinate the review of the preliminary plat and supporting data and documents and shall provide comments to the subdivider within a reasonable time after a complete submittal is made to community development department staff.

(Code 1994, § 18.04.420; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-160. Required information.

(a) All preliminary plats shall contain the following information:

(1) Proposed name of subdivision, legal description and acreage.

(2) Name and address of subdivider, engineer, surveyor and owners of subject property.

(3) Location and boundaries of the subdivision tied to two legal survey monuments according to state regulatory law.

(4) Date of preparation and all subsequent revisions, scale and north arrow.

(5) Boundary lines of subdivision, location and dimensions of all existing streets, alleys, trails, paths, easements (including recording information for all existing easements), watercourses, irrigation ditches and structures on and within 150 feet of the subdivision, and the common names of all such items.

(6) Location and dimensions of all proposed streets, alleys, trails, paths, easements, lot lines, building envelopes and other areas to be reserved or dedicated for parks, schools, parking areas or other public uses. Boundary and street closures will be checked at this stage.

(7) If applicable, the location and dimensions of all known oil and gas production facilities on site and within 1,000 feet of the site or as determined by applicable state standards, including well heads, flow lines, transmission lines, gathering lines and tank batteries, as well as access roads to the site for determining high density classification for oil and gas regulation purposes.

(8) If applicable, setbacks for existing oil and gas production facilities on the site, as required in chapter 18 of this title.

(9) If applicable, sight distance triangles on all affected lots or building envelopes.

(10) If applicable, cross-easements, including, but not limited to, access, parking, landscaping and drainage.

(11) Location, character and proposed disposition of existing natural features and size of vegetative cover, including trees having a caliper greater than 2 1/2 inches and shrubs of at least five-gallon size.

(12) Designation of areas subject to flooding, including floodplain, floodway and base flood elevations.

(13) Land use breakdown, including number and size of lots and building envelopes in square footage.

(14) Proposed location and size of sites for multifamily, business, industrial, church, open space or other nonpublic areas.

(15) Zoning on and adjacent to the subdivision.

(16) Names of abutting subdivisions or the names of the owners of abutting unplatted property.

(17) A location map of the area surrounding the site within a distance of at least one-half mile, showing zoning districts, transportation systems, major public facilities and location of existing municipal boundary lines.

(b) In addition to the preliminary plat, the following supporting documents and data shall be submitted:

(1) One 11-inch by 17-inch reduction of the preliminary plat, perimeter landscape plan.

(2) A written listing of all variances and/or deviations from city standards proposed on the plat, referencing applicable sections of this chapter and information supporting such request.

(3) Current written evidence of ownership and written evidence of notice to all ownership or lien-holder interests, including, but not limited to, a warranty deed, contract or property tax notice of the subject property.

(4) Preliminary engineering plans (eight copies), prepared by a professional engineer registered in the state, containing:

a. Alignment and dimensions of all proposed roadways, parking lots where available and sidewalks;

b. Maximum and minimum grades for all proposed roadways and sidewalks;

c. Proposed street sections for all classifications included in the development or construction; and

d. Preliminary hydraulic report (two copies).

(5) Preliminary utility plan (eight copies), prepared by a professional engineer registered in the state, containing:

a. Alignment of all existing and proposed utility lines;

b. Location and dimension of existing and proposed easements (including recording information for all existing easements);

c. Size of existing and proposed water and sewer lines;

d. Location of existing and proposed fire hydrants and water meter pits; and

e. Location of all proposed improvements within the public right-of-way.

(6) Preliminary drainage plan and report (three copies), prepared by a professional engineer registered in the state. (Refer to the city's Stormwater Drainage Design Criteria Manual for further information.) The following information shall be included:

a. Designation of any area subject to inundation;

b. Location of existing watercourses, floodway and flood fringe locations and any applicable permits;

c. Details of proposed over-lot grading, including significant features such as retaining walls and grades matching adjacent properties;

d. Direction of stormwater flow;

e. Points of diversion; and

f. Types and locations of existing and proposed storm drainage structures and stormwater detention facilities.

(7) Soils report (three copies) containing:

a. Description of soils existing on the site, accompanied by analysis as to the suitability of such soils for the intended construction;

b. Description of the hydrologic conditions of the site with analysis of water table fluctuation and a statement of site suitability for the intended construction; and

c. Location and extent of recoverable gravel areas, if applicable.

(8) Contour map (three copies) showing existing and proposed two-foot contour elevations.

(9) Traffic impact study (three copies) unless waived by the public works director, prepared by a registered traffic engineer in accordance with requirements available from the public works transportation services department, containing:

a. Projected traffic generated as a result of the proposed development;

b. Review of existing traffic volumes in the area of the proposed development;

c. Impact analysis of build out, and 20-year site and background traffic on site and surrounding streets; and

d. Proposed traffic improvements.

(10) Project narrative (three copies), consisting of a written description of the proposed subdivision and how the subdivision complies with applicable zoning and comprehensive planning criteria.

(11) If applicable, preliminary development phasing plan (three copies), consisting of an overall plan of the subdivision and written description of the proposed phasing schedule for all public improvements and utility installation.

(12) Preliminary perimeter treatment plan (eight copies) for those subdivisions which border arterial or major collector streets, showing materials, techniques and sizes proposed for the site's perimeter treatment, such as landscaping, fencing, berms, screening walls or a combination of such items, and addressing the

subdivider's responsibility to establish a mechanism and timing, acceptable to the city, for the installation and maintenance of such materials placed between the back of curb and property line. The plan shall also show off-site water and sewer lines within ten feet of the perimeter of the site, water meter pits, fire hydrants and sanitary sewer manholes. For further information, refer to chapter 11 of this title.

(13) Preliminary signing and striping plan to included turn lanes into and out of the site, and all driveways within 150 feet of the site, where available.

(14) Certification that written notice was mailed to mineral rights owners and lessees at the last-known address of record and that a legal notice was placed in a local newspaper by the applicant regarding the proposal.

(15) Applicable fee for processing and reviewing the plat.

(16) Biologist's report (three copies), in compliance with chapter 13 of this title, unless waived by the community development director.

(17) Such additional information as may be required by the community development director in order to ensure a complete and comprehensive review of the proposed preliminary plat.

(Code 1994, § 18.04.430; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-161. Preliminary plat review.

(a) Upon determination by community development department staff that the preliminary plat submittal is complete, the staff shall furnish the following agencies and offices with a copy of such plat and related supporting documents for review and comment:

(1) Building inspection department.

(2) Public works department.

(3) Fire department (or other applicable fire district).

(4) Water and sewer department.

(b) If the community development department staff determines that other agencies and offices may be affected by or interested in the proposed preliminary plat, the staff may furnish the following agencies and offices with a copy of such plat and related supporting documents for review and comment:

(1) Police department.

(2) City attorney's office.

(3) Public school districts.

(4) State department of transportation.

(5) County planning department.

(6) U.S. post office.

(7) Natural gas companies.

(8) Electric power companies.

(9) Telephone and communications companies.

(10) Ditch and irrigation companies.

(11) Railroad companies.

(12) Cable television companies.

(13) U.S. Army Corps of Engineers.

(14) Greeley-Weld County Airport.

(15) Northern Colorado Water Conservancy District.

(16) Adjacent municipalities.

(17) Other interested agencies and offices.

(c) All such reviewing agencies and offices will be requested to review the application within two weeks from the date of distribution of the plat and required supporting documents to make any objections or comments to community development department staff. This time period may be extended due to case load and complexity of applications. community development department staff shall include a summary of all comments received on the preliminary plat, along with the staff recommendation, in a report which shall be presented to the planning commission for consideration with the preliminary plat. See the illustration below for a description of the preliminary plat process.

(d) In taking action on a preliminary plat, the planning commission shall consider any comments received from agencies or offices receiving copies of the preliminary plat, as well as the staff recommendation. The commission shall also consider if the proposed preliminary plat meets the following standards in taking action to approve, approve with conditions, deny or table the plat for future consideration:

(1) All requirements of the zoning district in which the subject property is located have been met, and street width or other performance options, if applicable, have been approved by the public works department.

(2) All requirements of this chapter have been met, or variances have been requested from the planning commission.

(3) The proposed preliminary plat is in conformance with any approved development concept master plan for the property.

(e) The decision of the planning commission on a preliminary plat shall be considered final unless appealed by the applicant or subdivider to the city council. Appeals must be filed, in writing, with the community development department within ten working days of the decision of the planning commission. Appeals shall meet all provisions of article XII of chapter 4 of this title.

(f) Approval of a preliminary plat shall be valid for a period of three years from the date of approval by the planning commission. Within this three-year period, the subdivider shall proceed by filing a final plat with the community development department. Upon written application and for good cause, the community development director shall extend the preliminary approval period for two consecutive six-month periods. Any additional six-month extensions may be approved, if at all, by the planning commission. A request for extension of preliminary approval must be submitted by the subdivider prior to the date of expiration. Failure to submit a written request within the specified time period shall cause forfeiture of the right to extension of preliminary approval. If no final plat is filed with the community development department within such time, the right to submit the final plat shall be forfeited. In the event that the final plat covers only a portion of the territory covered by the preliminary plat, such approval of the preliminary plat shall be automatically renewed for additional periods of three years following the approval of each final plat.

[GRAPHIC - Preliminary Plat flow chart]

(Code 1994, § 18.04.440; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 24-162. Combined preliminary and final plat submittal.

(a) The community development department staff shall use the following guidelines in determining when a combined preliminary and final plat submittal shall be permitted:

(1) The tract of land proposed for subdividing is not larger than five acres nor does it propose more than 15 lots, building envelopes or dwelling units;

(2) The tract of land proposed for subdividing does not include the design or construction of any new public streets or other public improvements or facilities; and

(3) The tract of land proposed for subdividing does not include any areas relative to the site considerations as specified in section 24-336.

(b) Combined preliminary and final plat submittals shall be reviewed by the community development director and shall be accepted or rejected as a combined submittal by the director. If rejected, the subdivider shall

have the option to submit a preliminary plat which shall be processed under the provisions of sections 24-159 and 24-161.

(c) Combined preliminary and final plat submittals shall provide all information and supporting data and documents required in sections 24-160 and 24-196, except in no case shall the subdivider be required to submit separate plats and documents containing such information.

(d) Combined preliminary and final plat submittals shall be processed and reviewed as a preliminary plat under the provisions of section 24-161 and upon approval, shall be deemed a final plat for the purposes of the provisions of section 24-198.

(Code 1994, § 18.04.450; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Secs. 24-163--24-192. Reserved.

ARTICLE V. FINAL PLAT

Sec. 24-193. Purpose.

The final plat stage of land subdivision is intended to provide for the planning and review of a final subdivision plat, the design and review of public improvements and the dedication and/or vacation of easements or rights-of-way. To avoid delay in processing the application, the subdivider shall provide the community development department staff with all information essential to determine conformance with the approved preliminary plat, as well as how all preliminary conditions of approval have been met, as specified in this article.

(Code 1994, § 18.04.500; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-194. Conformance with approved preliminary plat.

(a) The final subdivision plat shall be designed to be in substantial conformance with the approved preliminary plat. For the purposes of this chapter, substantial conformance, including design adjustments made to meet any conditions of preliminary plat approval, is determined as follows:

(1) Does not change the land use of the proposed plat.

(2) Does not adjust the number of lots or building envelopes by more than five percent.

(3) Does not contain changes which would render the final plat in nonconformance with zoning requirements or the requirements of this chapter.

(4) Does not contain significant changes in street alignment and/or access points, or other public improvements, such as drainage improvements or utility lines or facilities.

(5) Does not contain significant changes that would render the final plat in nonconformance with any approved development concept master plan for the property.

(b) Final plats determined by the community development director to have changes that exceed the definition of the term "substantial conformance" shall be treated as a preliminary plat and shall be referred to the planning commission for consideration, unless the subdivider withdraws the application.

(Code 1994, § 18.04.510; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-195. Final plat filing.

(a) After approval by the planning commission of the preliminary plat and within the time that such approval remains effective, the subdivider shall present a final plat for review and approval by the community development director. The final plat shall be prepared in conformance with the approved preliminary plat and any conditions added at the time of preliminary plat approval, as specified in section 24-194, except that the final plat may constitute only a portion of the area covered by the preliminary plat.

(b) Ten copies of the final plat and required supporting data and documents prepared in accordance with requirements as set forth in section 24-196 shall be filed with the community development department. Additional copies of the plat and supporting data and a digital file of the plat may be requested by staff and upon request, shall be provided by the subdivider.

(c) The submittal shall be checked by community development department staff for completeness. If incomplete as to those requirements set forth in section 24-196, the submittal shall be returned and the subdivider notified in writing.

(d) The information required as part of the final plat submittal shall be shown graphically or by note on plans, or by letter and may comprise several sheets showing various elements of required data. All mapped data for the same plat shall be drawn at the same engineering scale, said scale having not more than 100 feet to one inch and shall be provided on drawings measuring 24 inches by 36 inches.

(e) Community development department staff shall process and coordinate the review of the final plat and supporting data and documents and shall provide comments to the subdivider within a reasonable time after a complete submittal is made to community development department staff.

(Code 1994, § 18.04.520; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-196. Required information.

(a) All final plats shall contain the following information:

(1) Proposed name of subdivision, legal description and acreage.

(2) Name and address of subdivider, engineer, surveyor and owners of subject property.

(3) All subdivision plats shall conform to all requirements as stated in the Colorado Revised Statutes, Title 38, Property Real and Personal, articles 50-53, inclusive (C.R.S. title 38, arts. 50—53 et seq.).

(4) Date of preparation and all subsequent revisions, scale and north arrow.

(5) Location and description of all monuments.

(6) Boundary lines of subdivision, right-of-way lines and dimensions of existing and proposed streets, driveways, easements (including recording information for all existing easements), alleys and other rights-of-way, trails, sidewalks, paths, irrigation ditches, block and lot lines or building envelopes with accurate bearings and distances within 350 feet of the property.

(7) Identification of blocks and each lot or building envelope by a number and area in square feet.

(8) If applicable, the location and dimensions of all known oil and gas production facilities, including well heads, flow lines, transmission lines, gathering lines, tank batteries and access roads within 1,000 feet of the subject property, for determining high density classification for oil and gas regulation purposes.

(9) If applicable, setbacks for existing oil and gas production facilities on the site, as required in chapter 18 of this title.

(10) If applicable, sight distance triangles on all affected lots or building envelopes.

(11) If applicable, cross-easements, including, but not limited to, access, parking, landscaping and drainage.

(12) The following statements and notes shall be shown on the plat~~, the forms of which are found in Appendix 18-A:~~

a. Dedication statement:

_____, being the sole owner(s) in fee of _____ (insert legal description), Weld County, Colorado, shown on the attached map as embraced within the heavy exterior lines thereon, has (have) subdivided the same into lots and blocks (or building envelopes) as shown on the attached map; and does (do) hereby set aside said portion or tract of land and designate the same (name of subdivision and statement that is a subdivision or addition to the City of Greeley, Weld County, Colorado); and does (do) dedicate to the public, the streets and all easements over and across said lots (or building envelopes) at locations shown on said map; and does (do) further certify that the width of said streets, the dimensions of the lots and blocks (or building envelopes) and the names and numbers thereof are correctly designated upon said map.

Signature of Owner

Witness my hand and seal this _____ day of _____, A.D. _____.

STATE OF COLORADO)

CITY OF GREELEY)

WELD COUNTY)

The foregoing instrument was acknowledged before me this _____ day of _____, 20___.

My commission expires: _____.

WITNESS my Hand and Official Seal.

Notary Public

b. Certificate and seal of registered land surveyor:

That I, _____, do hereby certify that I prepared this plat from an actual and accurate survey of this land, including all existing rights-of-way and easements, and that the corner monuments shown thereon were properly placed under my supervision, in accordance with the regulations of the State of Colorado.

Registered Land Surveyor

(SEAL)

Registration Number

c. Certificate of approval by engineering development review and civil inspections manager or their designee:

Approved this _____ day of _____, 20___, by the engineering development review and civil inspections manager or their designee of the City of Greeley, Colorado.

Engineering development review and civil inspections manager

d. Certificate of approval by the community development director.

Approved this ____ day of _____, 20___, by the community development director of the city of Greeley, Colorado.

Community development director

e. The following standard notes, as applicable:

1. *Street maintenance*. It is mutually understood and agreed that the dedicated roadways shown on this plat will not be maintained by the city until and unless the streets are constructed in accordance with the subdivision regulations in effect at the date construction plans are approved, and, provided that construction of said roadway is started within one year of the construction plan approval. The owner, developer and/or subdividers, their successors and/or assigns in interest, shall be responsible for street maintenance until such time as the city accepts the responsibility for maintenance as stated above.

2. *Drives, parking areas and utility easements maintenance*. The owners of this subdivision, their successors and/or assigns in interest, the adjacent property owner, homeowners' association or other entity other than the city is responsible for maintenance and upkeep of any and all drives, parking areas and easements (cross-access easements, drainage easements, etc.).

3. *Drainage maintenance*. The property owner shall be responsible for maintenance of all drainage facilities installed pursuant to the development agreement. Requirements include, but are not limited to, maintaining the specified stormwater detention/retention volumes, maintaining outlet structures, flow restriction devices and facilities needed to convey flow to said basins. The city shall have the right to enter properties to inspect said facilities at any time. If these facilities are not properly maintained, the city shall notify the property owner in writing and shall inform the owner that corrective action by the owner shall be required within ten working days of receipt of notification by the city, unless an emergency exists, in which case corrective action shall be taken immediately upon receipt of notification by the city. If the owner fails to take corrective action within ten working days, the city may provide the necessary maintenance and assess the maintenance cost to the owner of the property.

4. *Drainage liability*. The city does not assume any liability for drainage facilities improperly designed or constructed. The city reviews drainage plans but cannot, on behalf of any applicant, owner or developer, guarantee that final drainage design review and approval by the city will relieve said person, his successors and assigns, from liability due to improper design. City approval of a final plat does not imply approval of the drainage design within that plat.

5. *Landscape maintenance*. The owners of this subdivision, their successors and/or assigns in interest, the adjacent property owner, homeowners' association or entity other than the city is responsible for maintenance and upkeep of perimeter fencing or walls, landscaping and landscaped areas and sidewalks between the property line and any paved roadways. The owners of this subdivision, their successors and/or assigns in interest or an entity other than the city, agree to the responsibility of maintaining all other open space areas associated with this development.

6. *Sight distance*. The clear vision zone of a corner lot, as determined by section 18.44.090(b)(1) of the Development Code, shall be free from shrubs, ground covers, berms, fences, signs, structures, parked vehicles or other materials or items greater than 36 inches in height from the street level.

7. *Public safety*. Access, whether for emergency or nonemergency purposes, is granted over and across all access ways for police, fire and emergency vehicles. If any or all of the access ways in this subdivision are private, the homeowners' association will be responsible for ensuring that such access ways are passable, at all times, for police, fire and emergency vehicles.

8. *Drainage master plan*. The policy of the city requires that all new development and redevelopment shall participate in the required drainage improvements as set forth below:

   (i) Design and construct the local drainage system as defined by the final drainage report and plan and the stormwater management plat.

   (ii) Design and construct the connection of the subdivision drainage system to a drainage way of established conveyance capacity, such as a master planned outfall storm sewer or master planned major drainage way. The city will require that the connection of the minor and major systems provide capacity to convey only those flows (including off-site flows) leaving the specific development site. To minimize overall capital costs, the city encourages adjacent developments to join in designing and constructing connection systems. Also, the city may choose to participate with a developer in the design and construction of the connection system.

(iii) Equitable participation in the design and construction of the major drainage way system that serves the development as defined by adopted master drainage way plans or as required by the city and designed in the final drainage report and the stormwater management plan.

9. *Maintenance easements*. A maintenance easement is required for developments with zero side setbacks, if one structure is built on the lot line. In order to maintain the structure with the zero side setback, a maintenance easement may be required on the adjacent lot to enable maintenance to be performed on said structure from the adjoining property. Each lot owner agrees to allow adjacent lot owners access across their lot, within five feet of the common lot line, as may be needed to maintain and repair the adjacent owner's principal structure. Each adjacent owner agrees to repair any damage which may be caused to the lot owner's property from the adjacent owner's use of this maintenance easement and to take all necessary steps to avoid causing such damage.

10. *Street lighting*. All lots are subject to and bound by tariffs which are now and may in the future be filed with the public utilities commission of the state relating to street lighting in this subdivision, together with rates, rules and regulations therein provided and subject to all future amendments and changes thereto. The owners or their successors and/or assigns in interest, shall pay, as billed, a portion of the cost of public street lighting in the subdivision in accordance to applicable rates, rules and regulations, including future amendments and changes on file with the public utilities commission.

11. *Water or sewer main easements*. There shall be no permanent structures, fences, detention ponds, landscaping (plantings or berms) greater than three feet, tall mature growth, or other encumbrances located in water or sewer main easements.

12. *Water or sewer mains in private roads or easements*. For public water and sewer mains located in private roads or easements, future repair of paving or other improved surfaces subsequent to the repair of a water or sewer main shall be the responsibility of the homeowners' or condominium association. The water and sewer department will safely backfill the trench to the surface, but not rebuild any surface improvements.

(b) In addition to the final plat, the following supporting documents and data shall be submitted:

(1) Development agreement, with attachments, including legal descriptions, in a form acceptable to the city. Said attachments shall include the timetable for the construction of the improvements, any special conditions of construction and cost estimates at 100 percent of the total cost of required improvements.

(2) Current written evidence of ownership and written evidence of notice to all ownership or lien-holder interests, including, but not limited to, a warranty deed, contract or property tax notice of the subject property.

(3) A written listing of all variances and/or deviations from city standards proposed on the plat, referencing applicable sections of this chapter and information supporting such request.

(4) If vacating easements and/or rights-of-way, a completed utility company consent of vacation form available from the community development department.

(5) Final utility plans (eight copies), prepared by a professional engineer registered in the State of Colorado, required on separate sheets if so determined by the city engineer, and containing:

a. Detailed drawings of all dimensions and locations of easements, physical lines and other equipment and apparatus for providing water, sanitary sewer, fire protection, including water meter pits, fire hydrants and sanitary sewer manholes, electricity, natural gas and any other required utility services; and

b. Detailed drawings showing grades and cross-sections of all streets, alleys and sidewalks.

(6) Water and sanitary sewer hydraulic report (two copies).

(7) A traffic impact study (TIS) (three copies) shall be prepared by a registered traffic engineer unless waived

by the public works department. The study should follow the TIS requirements of the transportation services division.

(8) Final drainage plans and report (two copies), prepared by a professional engineer registered in the State. A brief summary of drainage requirements is listed as follows. For a complete list of requirements, see the city's Stormwater Drainage Design Criteria Manual.

a. All areas intended for residential use shall be designed for two- and 100-year storm return periods (streets shall carry a two-year storm without overtopping the curb and gutter, and all permanent improvements shall be protected from inundation due to a 100-year storm).

b. All areas intended for commercial, business or industrial use shall be designed for five- and 100-year storm return periods (streets shall carry a five-year storm without overtopping the curb and gutter and all permanent improvements shall be protected from inundation due to a 100-year storm).

c. Calculated flow quantities and depth at each intersection and at any intermediate critical point for the minor and major storms; flow quantities entering and leaving property, along with final disposition of these quantities; all drainage basins and sub-basins contributing to flows through the property with design acreage noted; all design data with all calculations; plan, profile and design sheets for any other drainage facilities required by the director of public works pursuant to the director's authority as granted in chapter 18 of this title.

(9) Dust abatement and construction traffic plan, consisting of a written description of methods to control dust and routes planned for construction traffic to access and exit the construction site.

(10) Stormwater management plan, including a plan for erosion and sediment control. This plan may include the drainage plan and report as required in subsection (b)(6) of this section.

(11) Project narrative, consisting of a written description of how the final plat conforms with the approved preliminary plat and any conditions added at the time of preliminary plat approval.

(12) If applicable, final development phasing plans (three copies), consisting of an overall plan of the subdivision and written description of the proposed phasing schedule for all public improvements.

(13) If applicable, final perimeter treatment plan (three copies), showing materials, techniques and sizes proposed for the site's perimeter treatment, such as landscaping, fencing, berms, screening walls or a combination of such items and addressing the subdivider's responsibility to establish a mechanism and timing for the installation and maintenance of such materials placed between the back of curb and property line acceptable to the city and one 11-inch by 17-inch reduction of final plat and perimeter landscape plan. For further information, refer to chapter 11 of this title.

(14) Copy of any existing or proposed deed restrictions or covenants for the property.

(15) Other information in report and/or plan form, as applicable:

a. Proposed parking areas and total number of parking stalls.

b. Lighting plan containing one 11-inch by 17-inch reduction, showing location and height of all exterior lights and description of light and illumination pattern.

c. Signage plan showing location of all signs, including traffic control signs, as well as the description and dimensions of all signs.

d. Construction plans for any proposed public improvements, including pavement marking and traffic signal plans.

e. Soil and pavement design report, documents soil conditions and proposed pavement installation with the structural cross-sections for parking lots and streets.

f. Retaining wall design report, with all supporting engineering calculations needed for retaining wall installations that are 30 inches or more above finished grade.

g. Development phasing plan (if construction of development is to be phased and all required public improvements are not completed prior to issuance of building permits) detailing temporary

construction required to support each phase of development.

h. Location, character and proposed disposition of existing natural features and size of vegetative cover, including trees having a caliper greater than 2 1/2 inches and shrubs of at least five-gallon size.

(16) Evidence that current property taxes for the subject property have been paid.

(17) If applicable, information detailing the mechanism for the perpetual maintenance of common open space areas and recreational facilities.

(18) Applicable fee for processing and reviewing the plat.

(19) Such additional information as may be required by the community development director in order to ensure a complete and comprehensive review of the proposed final plat or required to address any conditions of preliminary plat approval.

(Code 1994, § 18.04.530, app. 18-A; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003; Ord. No. 44, 2011, § 1, 12-6-2011; Ord. No. 30, 2019, § 1, 7-2-2019)

Sec. 24-197. Final plat review.

(a) Upon determination by city staff that the final plat submittal is complete and that the final plat is in substantial conformance with the approved preliminary plat, the staff shall furnish the following agencies and offices with a copy of such plat and relating supporting documents for review and comment:

(1) Building inspection department.

(2) Public works department.

(3) Fire department (or other applicable fire district).

(4) Water and sewer department.

(b) If the community development department staff determines that other agencies and offices may be affected by or interested in the proposed final plat, the staff may furnish the following agencies and offices with a copy of such plat and relating supporting documents for review and comment:

(1) Department of culture, parks and recreation.

(2) Police department.

(3) City attorney's office.

(4) Public school districts.

(5) State department of transportation.

(6) County planning department.

(7) U.S. post office.

(8) Natural gas companies.

(9) Electric power companies.

(10) Telephone and communications companies.

(11) Ditch and irrigation companies.

(12) Railroad companies.

(13) Cable television companies.

(14) U.S. Army Corps of Engineers.

(15) Greeley-Weld County Airport.

(16) Northern Colorado Water Conservancy District.

(17) Adjacent municipalities.

(18) Other interested agencies and offices.

(c) All such reviewing agencies and offices will be requested to review the application within two weeks from the date of distribution of the plat and required supporting documents to make any objections or comments to community development department staff. This time period may be extended due to case load and complexity of applications. Community development department staff shall include a summary of all comments received on the final plat, along with the staff recommendation, in a report which shall be presented to the community development director for consideration of the final plat. See the illustration below for a description of the final plat process.

(d) Any comments received from agencies or offices receiving copies of the final plat shall be considered by the community development director in the review of the final plat. If the final plat is determined to be in substantial conformance with the approved preliminary plat, the final plat shall be approved by the director and a written report of such approval shall be given to the planning commission. In addition to all other requirements and conditions set forth herein, it shall be a condition of the final plat that all required city and recording fees be paid.

(e) The decision of the community development director on a final plat shall be considered final unless appealed by the applicant or subdivider to the planning commission.

(1) The decision of the planning commission on appeal shall be final, unless the applicant or subdivider elects to appeal the planning commission decision to the city council, in which case, the decision of the city council shall be final. Appeals must be filed, in writing, with the community development department within ten working days of the decision of the community development director. Appeals shall meet all provisions of article XII of chapter 4 of this title.

(2) No building permit or certificate of occupancy (CO) shall be issued for any lot or building envelope within a subdivision until and unless the same shall have become final, pursuant to the provisions herein and the appeal period as provided in article XII of chapter has expired, except if the subdivider signs a waiver of appeal rights or enters into a written agreement with the city for issuance of the permit or CO. In no event shall the plat be recorded prior to the end of the appeal period.

(f) After approval of a final plat and upon completion of all related documents to the satisfaction of the city, the community development director shall cause the final plat to be signed and recorded in the county clerk and recorder's office.

(g) By submittal of a final plat for approval, the subdivider shall be deemed to have agreed to construct, at the subdivider's expense, all improvements required by this chapter, including those improvements noted on the final plat, final utility plans and final perimeter treatment plan, such as streets and alleys, landscaping and improvements shown on the drainage and utility plans. The subdivider shall provide a written agreement with the final plat submittal, legally binding the subdivider to construct improvements required by this chapter and shall also provide final as-built construction plans. Said agreement shall be mutually acceptable to the subdivider and the city and shall specify all improvements to be constructed by the subdivider, either for the entire development or for a particular phase of the development and shall include a timetable for the construction of the improvements, any special conditions of construction and a cost estimate at 125 percent of the total construction costs. In lieu of the completion of all required improvements prior to the issuance of building permits as provided in section 24-342, the subdivider may elect to post a financial guarantee acceptable to the city, as provided in this Development Code, in the amount of 125 percent of the total cost of all required improvements, as required under other adopted city regulations, to assure completion and payment for all improvements. Said financial guarantee may be reduced in increments upon the completion of a portion of the required improvements, as deemed appropriate by the city and as provided for in the development agreement. This agreement shall be recorded in the county clerk and recorder's office. This section is intended to apply to the vesting of the approval of a final subdivision plat. A more restrictive time deadline may be placed on the actual completion of public improvements as per individual development agreements, as provided in sections 24-54 through 24-56.

[GRAPHIC - Final Plat flow chart]

(Code 1994, § 18.04.540; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003; Ord. No. 05, 2010, § 1, 3-23-2010; Ord. No. 31, 2012, § 2, 8-7-2012)

Sec. 24-198. Time limit for validity of final plat.

(a) The subdivider shall undertake and complete all work within the public right-of-way of an approved final plat within five years from the date of final approval, or for phased developments, within five years of the completion of each phase. For the purposes of this chapter, a final plat is considered complete once all public improvements (water, sewer, streets, curbs, gutters, sidewalks, streetlights, fire hydrants and storm drainage improvements) are installed and completed in accordance with city regulations. In the event that construction or development is intended to occur over a period of time in phases, each phase shall provide the necessary level of improvements as determined and required by the city to support the particular phase, and the determination of whether a development is considered complete shall be based solely on those improvements required with that particular phase. Construction drawings may be amended from time to time and shall not be affected by this time limit, and such amendments shall not be construed to extend the time limit. This section is intended to apply to the vesting of the approval of a final subdivision plat. A more restrictive time deadline may be placed on the actual completion of public improvements as per individual development agreements, as provided in sections 24-54 through 24-56.

(b) Extensions for successive periods of not more than 12 months shall be granted by the community development director. A request for extension of final approval under this section must be submitted to the director in writing prior to the date of expiration. Failure to submit a written request within the specified time period shall cause forfeiture of the right to extension of the final plat approval. Failure to develop within the specified time limit shall cause forfeiture of the right to proceed under the final plat and require resubmission of all materials and reapproval of the same. All dedications as contained on the final plat shall remain valid unless vacated in accordance with law. The city reserves the right to require changes to the approved final plat as a condition to granting the extension.

(Code 1994, § 18.04.550; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Secs. 24-199--24-219. Reserved.

ARTICLE VI. MINOR PLAT

Sec. 24-220. Purpose and application.

(a) The minor subdivision procedure is intended for divisions of land which are considered to have little impact on existing public improvements and facilities. This procedure may be used for the following purposes:

(1) Division of a parcel of land into not more than ten lots or building envelopes which are intended for residential use; or into not more than six lots which are intended for commercial or industrial use; or for the creation of lots not less than 80 acres in size, the plat of which does not propose new streets or municipal financial participation in any public improvements required as a result of said proposed plat. For existing commercial or industrial developments, a minor plat may also be used to create any number of additional lots in existing commercial or industrial developments as long as the following criteria are met:

a. The site is fully built out and there are no physical changes planned for the site; and

b. No additional access shall be created on a public right-of-way.

(2) The aggregation of not more than ten parcels into one or more parcels.

(3) The recording of private easements and the dedication and/or vacation of public easements.

(4) The division of a parcel of land into lots for existing townhouse dwellings.

(5) Replats to adjust boundary, lot lines or building envelopes.

(6) Lot line adjustments to provide for minor adjustments to legally subdivided lots and building envelopes.

(b) A minor plat shall not be approved if the property is within a parcel, any part of which has been subdivided by a minor subdivision plat within the immediately preceding 12 months. This time limitation shall not apply to minor subdivision plats submitted solely for the purposes identified in section 24-220(a)(2), (3), (4) and (5). The community development director shall determine whether or not any minor subdivision plat application is

submitted with the intent of, or having the effect of, avoiding preliminary plat procedures and requirements. If it is determined that the minor subdivision plat application circumvents preliminary plat procedures, the director shall reject the application submitted under this section and require the subdivider to submit a preliminary subdivision plat, meeting all the provisions of article IV of this chapter.

(c) A minor plat shall not be approved by the community development director if the plat proposes variances to any provision contained within this chapter. Such variances shall only be considered by the planning commission as specified in section 24-89 and said plat shall be submitted and processed as a preliminary plat.

(d) Any subdivider proposing a minor subdivision shall begin the minor subdivision process with the pre-application conference stage, as provided in section 24-107.

(Code 1994, § 18.04.600; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-221. Compliance with zoning and other regulations.

The minor subdivision shall comply with all other city ordinances and/or regulations as added or amended and as required by the city, including this Development Code and any applicable performance options as provided in article VI of chapter 8 of this title.

(Code 1994, § 18.04.610; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-222. Minor plat filing.

(a) Ten copies of a minor plat and required supporting data and documents prepared in accordance with requirements as set forth in section 24-223 shall be filed with the community development department as a minor plat application. Additional copies of the plat and supporting data and a digital file of the plat may be requested by staff and, upon request, shall be provided by the subdivider.

(b) The submittal shall be checked by community development department staff for completeness. If incomplete as to those requirements as set forth in section 24-223, the submittal shall be returned and the subdivider notified in writing.

(c) The information required as part of the minor plat submittal shall be shown graphically, by note on plans or by letter and may comprise several sheets, showing various elements of required data. All mapped data for the same plat shall be drawn at the same engineering scale, said scale having not more than 100 feet to one inch and shall be provided on drawings measuring 24 inches by 36 inches.

(d) Community development department staff shall process and coordinate the review of the minor plat and supporting data and documents and shall provide comments to the subdivider within a reasonable time after a complete submittal is made to community development department staff.

(Code 1994, § 18.04.620; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-223. Required information.

(a) All minor plats shall contain the following information:

(1) Proposed name of subdivision, legal description and acreage.

(2) Name and address of subdivider, engineer, surveyor and owners of subject property.

(3) All subdivision plats shall conform to all requirements as stated in the Colorado Revised Statutes, Title 38, Property Real and Personal, articles 50-53, inclusive (C.R.S. title 38, arts. 50—53 et seq.).

(4) Date of preparation and all subsequent revisions, scale and north arrow.

(5) Location and description of all monuments.

(6) Boundary lines of subdivision, rights-of-way lines and dimensions of existing and proposed streets, easements (including recording information for all existing easements), alleys and other rights-of-way, irrigation ditches, block and lot lines or building envelopes with accurate bearings and distances.

(7) Identification of blocks and each lot or building envelope by a number and area in square feet.

(8) If applicable, the location and dimensions of all known oil and gas production facilities on site, including

well heads, flow lines, transmission lines, gathering lines, tank batteries and access roads within 1,000 feet of the subject property for determining high density classification for oil and gas regulation purposes.

(9) If applicable, setbacks for existing oil and gas production facilities on the site, as required in chapter 18 of this title.

(10) If applicable, sight distance triangles on all affected lots or building envelopes.

(11) If applicable, cross-easements, including, but not limited to, access, parking, landscaping and drainage.

(12) Designation of areas subject to flooding, including floodplain, floodway and base flood elevations.

(13) Zoning on and adjacent to the subdivision.

(14) Names of abutting subdivisions or the names of the owners of abutting unplatted property.

(15) A location map of the area surrounding the site within a distance of at least one-half mile, showing zoning districts, transportation systems, major public facilities and location of existing municipal boundary lines.

(16) The following statements and notes shall be shown on the plat, as applicable~~, the forms of which are found in Appendix 18-A of this title~~:

a. Dedication statement:

"_____, being the sole owner(s) in fee of _____ (insert legal description), Weld County, Colorado, shown on the attached map as embraced within the heavy exterior lines thereon, has (have) subdivided the same into lots and blocks (or building envelopes) as shown on the attached map; and does (do) hereby set aside said portion or tract of land and designate the same (name of subdivision and statement that is a subdivision or addition to the City of Greeley, Weld County, Colorado); and does (do) dedicate to the public, the streets and all easements over and across said lots (or building envelopes) at locations shown on said map; and does (do) further certify that the width of said streets, dimensions of the lots and blocks (or building envelopes) and the names and numbers thereof are correctly designated upon said map.

Signature of Owners

Witness my hand and seal this _____ day of _____, A.D. _____.

STATE OF COLORADO)

CITY OF GREELEY)

WELD COUNTY)

The foregoing instrument was acknowledged before me this _____ day of _____, 20___.

My commission expires: _____.

WITNESS my Hand and Official Seal.

Notary Public

b. Certificate and seal of registered land surveyor:

That I, _____, do hereby certify that I prepared this plat from an actual and accurate survey of the land, including all existing rights-of-way easements and that the corner monuments shown thereon were properly placed under my supervision, in accordance with the regulations of the State of Colorado.

Registered Land Surveyor

(SEAL)

Registration Number

c. Certificate of approval by the engineering development review and civil inspections manager or their designee:

Approved this _____ day of _____, 20___, by the city engineer of the city of Greeley, Colorado.

Engineering Development Review and Inspections Manager

d. Certificate of approval by community development director:

Approved this ____ day of _____, 20___, by the community development director of the city of Greeley, Colorado.

Community Development Director

e. All applicable standard final plat notes as specified in section 24-196(a)(12)e.

(b) In addition to the minor plat, the following supporting documents and data shall be submitted for plats creating lots or building envelopes which are intended for the construction of new buildings or structures:

(1) Development agreement with attachments, including legal descriptions, if determined to be applicable by the city and in a form acceptable to the city. Said attachments shall include the timetable for the construction of the improvements, any special conditions of construction and cost estimates at 100 percent of the total cost of all required improvements.

(2) Current written evidence of ownership and evidence of written notice to all ownership or lien-holder interests, including, but not limited to, a warranty deed, contract or property tax notice of the subject property.

(3) If vacating easements or rights-of-way, a completed utility company consent of vacation form available from the community development department.

(4) Utility plans (eight copies), prepared by a professional engineer registered in the state, containing:

a. Detailed drawings of dimensions and locations of all easements, physical lines and other equipment and apparatus for providing water, sanitary sewer, fire protection, including water meter pits, fire hydrants and sanitary sewer manholes, electricity, natural gas and any other utility services; and

b. Detailed drawings showing grades and cross-sections of all streets, alleys and sidewalks.

(5) Water and sanitary sewer hydraulic report (two copies).

(6) Drainage plans and report (three copies), prepared by a professional engineer registered in the state. A brief summary of drainage requirements is listed as follows. For a complete list of requirements, see the city's Stormwater Drainage Design Criteria Manual.

a. All areas intended for residential use shall be designed for two- and 100-year storm return periods (streets shall carry a two-year storm without overtopping the curb and gutter, and all permanent improvements shall be protected from inundation due to a 100-year storm).

b. All areas intended for commercial, business or industrial use shall be designed for five- and 100-year storm return periods (streets shall carry a five-year storm without overtopping the curb and gutter, and all permanent improvements shall be protected from inundation due to a 100-year storm).

c. Calculated flow quantities at each intersection for the minor storm; flow quantities entering and leaving property, along with final disposition of these quantities; all drainage basins and sub-basins contributing to flows through the property with design acreage noted; inundation line for 100-year storm; all design data with all calculations; plan, profile and design sheets for any other drainage facilities required by the director of public works pursuant to the director's authority as granted in chapter 18 of this title.

(7) Dust abatement and construction traffic plan, consisting of a written description of methods to control dust and routes planned for construction traffic to access and exit the construction site.

(8) Stormwater management plan, including a plan for erosion and sediment control. This plan may include the drainage plan and report as required in subsection (b)(6) of this section.

(9) If applicable, final development phasing plans (three copies), consisting of an overall plan of the subdivision and written description of the proposed phasing schedule for all public improvements and utility installation.

(10) Perimeter treatment plan for those minor subdivisions which border arterial or major collector streets, showing materials, techniques and sizes proposed for the site's perimeter treatment, such as landscaping, fencing, berms, screening walls or a combination of such items and addressing the subdivider's responsibility to establish a mechanism and timing for the installation and maintenance of such materials placed between the back of curb and property line. For further information, refer to chapter 11 of this title. Also show off-site water and sewer lines within ten feet of the perimeter of the site, water meter pits, fire hydrants and sanitary sewer manholes.

(11) Certification that written notice was mailed to mineral rights owners and lessees at the last-known address of record and that a legal notice was placed in a local newspaper by the applicant regarding the proposal.

(12) Copy of any existing or proposed deed restrictions or covenants for the property.

(13) Other information in report and/or plan form, as applicable:

a. Proposed parking areas and total number of parking stalls.

b. Lighting plan containing one reduction measuring 11 inches by 17 inches, showing location and height of all exterior lights and description of light and lumination pattern.

c. Signage plan showing location of all signs, including traffic control signs, as well as the description and dimensions of all signs.

d. Construction plans for any proposed public improvements, including pavement marking and traffic signal plans.

e. Soil and pavement design report, documents soil conditions and proposed pavement installation with the structural cross-sections for parking lots and streets.

f. Retaining wall design report, with all supporting engineering calculations needed for retaining wall installations that are 30 inches or more above finished grade.

g. Development phasing plan (if construction of development is to be phased and all required public improvements are not completed prior to occupancy) detailing temporary construction required to support each phase of development.

h. Location, character and proposed disposition of existing natural features and size of vegetative cover, including trees having a caliper greater than 2 1/2 inches and shrubs of at least five-gallon size.

i. Existing and proposed street lanes, driveways and signs with turn lanes shown to scale.

(14) Evidence that current property taxes for subject property are paid.

(15) Applicable fee for processing and reviewing the plat.

(16) Project narrative (three copies) consisting of a written description of the proposed subdivision and how

the subdivision complies with applicable zoning and comprehensive planning criteria, including performance options.

(17) If applicable, information detailing the mechanism for perpetual maintenance of common open space areas and recreational facilities.

(18) A biologist's report in compliance with chapter 13 of this title, unless waived by the community development director.

(19) Estimated peak hour vehicle trips. If over 50 on a minor street or 100 on an arterial, a TIS may be required.

(20) Such additional information as may be required by the community development director in order to ensure a complete and comprehensive review of the proposed minor plat.

(c) In addition to the minor plat, the following supporting documents and data shall be submitted for plats which dedicate or vacate easements: If vacating an easement, a copy of the legal instrument that dedicated said easement and a completed utility company consent of vacation form, available from the community development department.

(d) In addition to the minor plat, the following supporting documents and data shall be submitted for plats which propose the creation of lots for existing townhouse dwellings:

(1) A written description of the proposed lots and townhouse dwellings, describing how the existing building qualifies as a townhouse building and detailing the construction of the common walls and applicable building code regulations.

(2) A site plan, showing the townhouse dwellings, evidence of existing separate utility services (water, sewer and electric), access and parking for each of the proposed lots and units and that all setbacks are met for the existing parcel prior to the creation of the lots.

(3) An improvements location certificate showing all existing improvements on the proposed lots, prepared by a land surveyor licensed in the state.

(4) If easements are affected, a completed utility company consent of vacation form, available from the community development department.

(Code 1994, § 18.04.630, app. 18-A; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003; Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 44, 2011, § 1, 12-6-2011; Ord. No. 30, 2019, § 1, 7-2-2019)

Sec. 24-224. Minor plat review.

(a) Upon determination by community development department staff that the minor plat submittal is complete, the staff shall furnish the following agencies and offices with a copy of such plat and relating supporting documents for review and comment:

(1) Building inspection department.

(2) Public works department.

(3) Fire department (or other applicable fire district).

(4) Water and sewer department.

(b) If the community development department staff determines that other agencies and offices may be affected by or interested in the minor plat, staff may furnish the following agencies and offices with a copy of such plat and supporting documents for review and comment:

(1) Police department.

(2) City attorney's office.

(3) Public school districts.

(4) State department of transportation.

(5) County planning department.

(6) U.S. post office.

(7) Natural gas companies.

(8) Electric power companies.

(9) Telephone and communications companies.

(10) Ditch and irrigation companies.

(11) Railroad companies.

(12) Cable television companies.

(13) U.S. Army Corps of Engineers.

(14) Greeley-Weld County Airport.

(15) Northern Colorado Water Conservancy District.

(16) Adjacent municipalities.

(17) Other interested agencies and offices.

(c) All such reviewing agencies and offices will be requested to review the application within two weeks from the date of distribution of the plat and required supporting documents to make any objections or comments to community development department staff. This time period may be extended due to case load and complexity of applications. Community development department staff shall include a summary of all comments received on the minor plat, along with the staff recommendation, in a report which shall be presented to the community development director for consideration of the minor plat. See the illustration below for a description of the minor plat process.

(d) The community development director shall hold a review in the offices of the community development department at a reasonable time, as determined by the director, to approve, approve with conditions, deny or table for future consideration the proposed minor subdivision.

(e) In taking action on a minor plat, the director shall consider any comments received from agencies or offices receiving copies of the minor plat. If the community development director determines that the minor plat is in conformance with the provisions of this chapter, as well as the zoning regulations applicable to the zoning of the subject property, the director shall approve the minor plat. If the director determines that the minor plat as proposed may be detrimental to the public health, safety or welfare, does not qualify as a minor subdivision or involves factors which should be reviewed by the planning commission, the director shall treat the application as a standard preliminary subdivision and refer the request to the planning commission. The subdivider shall have the option to withdraw the application and, upon withdrawal, shall forfeit any application fees paid for the minor plat. If the application continues as a standard preliminary subdivision, the subdivider shall pay such additional fees as may be required for processing the plat as a standard preliminary plat.

(f) The decision of the community development director on a minor plat shall be considered final unless appealed by the applicant or subdivider to the planning commission. The decision of the planning commission on appeal shall be final, unless the applicant or subdivider elects to appeal the planning commission decision to the city council, in which case the decision of the city council shall be final. Appeals must be filed, in writing, with the community development department within ten working days of the decision of the director. Appeals shall meet all provisions of article XII of this chapter 4. Decisions of the community development director, the planning commission or the city council on appeal shall not prevent the subdivider from filing an application for standard preliminary subdivision approval by the planning commission. No building permit or certificate of occupancy shall be issued for any lot or building envelope within a subdivision until and unless the same shall have become final, pursuant to the provisions herein and the appeal period as provided in article XII of this chapter 4 has expired, except if the subdivider signs a waiver of appeal rights or enters into a written agreement with the city for issuance of the permit or CO. In no event shall the plat be recorded prior to the end of the appeal period.

(g) After approval of a minor plat and upon completion of all related documents to the satisfaction of the city, the community development director shall record a copy of the signed minor plat in the county clerk and recorder's office.

(h) By submittal of a minor plat for approval, the subdivider shall be deemed to have agreed to construct, at the subdivider's expense, all improvements required by this chapter, including those improvements noted on the plat, utility plans and perimeter treatment plan, such as streets and alleys, landscaping and improvements shown on the drainage and utility plans. The subdivider shall provide a written agreement with the minor plat submittal, legally binding the subdivider to construct improvements required by this chapter. Said agreement shall be mutually acceptable to the subdivider and the city and shall specify all improvements to be constructed by the subdivider, either for the entire development or for a particular phase of the development and shall include a timetable for the construction of the improvements, any special conditions of construction and a cost estimate at 125 percent of the total construction costs. In lieu of the completion of all required improvements prior to the issuance of building permits as specified in section 24-342, the subdivider may elect to post a financial guarantee acceptable to the city as provided in this Development Code, in the amount of 125 percent of the total cost of all required improvements. Said financial guarantee may be reduced in increments upon the completion of a portion of the required improvements, as deemed appropriate by the city and as provided for in the development agreement. This agreement shall be recorded in the county clerk and recorder's office.

[GRAPHIC - Minor plat flow chart]

(Code 1994, § 18.04.640; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 24-225. Time limit for validity of minor plat.

(a) The subdivider shall undertake and complete all work within the public right-of-way of an approved minor plat within five years from the date of approval, or for phased developments, within five years of the completion of each phase. For the purposes of this chapter, a minor plat is considered complete once all public improvements (water, sewer, streets, curbs, gutters, sidewalks, streetlights, fire hydrants and storm drainage improvements) are installed and completed in accordance with city regulations. Construction drawings may be amended from time to time and shall not be affected by this time limit, and such amendments shall not be construed to extend said time limit. This section is intended to apply to the vesting of the approval of a minor subdivision plat. A more restrictive time deadline may be placed on the actual completion of public improvements as per individual development agreements, as provided in section 24-54 through 24-56.

(b) Extensions for successive periods of not more than 12 months shall be granted by the community development director. A request for extension of final approval under this section must be submitted to the director in writing prior to the date of expiration. Failure to submit a written request within the specified time period shall cause forfeiture of the right to extension of the final plat approval. Failure to develop within the specified time limit shall cause forfeiture of the right to proceed under the minor plat and require resubmission of all materials and re-approval of the same. All dedications as contained on the minor plat shall remain valid unless vacated in accordance with law. The city reserves the right to require changes to the approved final plat as a condition to granting the extension.

(Code 1994, § 18.04.650; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Secs. 24-226--24-243. Reserved.

ARTICLE VII. EASEMENT DEDICATION, VACATION AND RECORDATION

Sec. 24-244. Purpose.

The purpose of this article is to set forth procedures for the dedication, vacation and recordation of easements which are not part of a platting process.

(Code 1994, § 18.04.700; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-245. Application and process.

(a) The dedication, vacation or recordation of easements may occur as a replat as provided in article VI of this chapter 4, or using the procedure specified herein. Applications for the dedication, vacation or recordation of easements shall contain the following information:

(1) A completed application form provided by the community development department.

(2) A written request describing the proposed dedication, vacation or recordation and why such is necessary.

(3) A scale drawing or illustration at least 11 inches by 17 inches in size, which accurately shows the proposed dedication or vacation.

(4) A copy of the deed or legal instrument identifying the applicant's interest in the property under consideration. If an authorized agent signs the application, a letter granting power of attorney to the agent from the property owner shall be provided.

(5) If dedicating an easement, a legal description of the proposed dedication, prepared by a land surveyor licensed in the state.

(6) If vacating an easement or a portion of an easement, a copy of the legal instrument that dedicated said easement and a completed utility company consent of vacation form available from the community development department. Refer to the Water and Sewer Design Manual, sections 3.08 and 4.08, for further information.

(7) Current written evidence of ownership and evidence of written notice to all ownership or lien-holder interests, including, but not limited to, a warranty deed, contract or property tax notice of the subject property.

(8) Applicable fee for processing and reviewing the dedication or vacation.

(b) Upon receipt of all application materials, as specified in section 24-245(a), the community development department staff shall furnish the following agencies and offices with a copy of the application for review and comment:

(1) Public works department.

(2) Water and sewer department.

(3) Fire department.

(4) Others.

(c) All such reviewing agencies and offices will be requested to review the application within two weeks from the date of distribution of the required application materials to make any objections or comments to community development department staff. This time period may be extended due to case load and complexity of applications. Community development department staff shall include a summary of all comments received on the dedication or vacation, along with the staff recommendation, to the community development director for consideration of such requests. See the illustration below for a description of the easement dedication, vacation and recordation process.

(d) The community development director shall consider all comments received as well as the staff recommendation in determining whether to approve, approve with conditions, deny or table the request for future consideration. If the community development director determines that the easement dedication or vacation request is not detrimental to the public health, safety or welfare, the request shall be approved. If the director determines that the request may be detrimental to the public health, safety or welfare, the director shall refer the request to the planning commission for consideration.

(e) The decision of the community development director on an easement dedication or vacation shall be considered final unless appealed by the subdivider to the planning commission. The decision of the planning commission on appeal shall be final, unless the subdivider elects to appeal the planning commission decision to the city council, in which case, the decision of the city council shall be final. Appeals must be filed, in writing, with the community development department within ten working days of the decision by the director. Appeals shall meet all provisions of article XII of this chapter 4.

(f) After approval of an easement dedication or vacation, the community development director shall record a copy of the scale drawing or illustration and legal description in the county clerk and recorder's office.

[GRAPHIC - Easement dedication, vacation and recordation process]

(Code 1994, § 18.04.710; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Secs. 24-246--24-268. Reserved.

ARTICLE VIII. RIGHT-OF-WAY DEDICATION AND VACATION

Sec. 24-269. Purpose.

The purpose of this article is to set forth procedures for the dedication and vacation of right-of-way which are not part of a platting process.

(Code 1994, § 18.04.800; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-270. Application and process.

(a) The provisions contained in this article shall apply to the dedication or vacation of right-of-way which is not part of a final subdivision plat, meeting the provisions of article V of this chapter 4 or part of a minor subdivision which does not create a new street, meeting the provisions of article VI of this chapter 4. Applications for the dedication or vacation of right-of-way shall contain the following information:

(1) A completed application form provided by the community development department.

(2) A written request describing the proposed dedication or vacation and why such is necessary.

(3) A scale drawing or illustration at least 11 inches by 17 inches in size, which accurately shows the proposed dedication or vacation.

(4) A copy of the deed or legal instrument identifying the applicant's interest in the property under consideration. If an authorized agent signs the application, a letter granting power of attorney to the agent from the property owner shall be provided.

(5) If dedicating right-of-way, a legal description of the proposed dedication, prepared by a land surveyor licensed in the state.

(6) If vacating right-of-way, or a portion of right-of-way, a copy of the legal instrument that dedicated said right-of-way and a completed utility company consent of vacation form, available from the community development department.

(7) Current written evidence of ownership and evidence of written notice to all ownership or lien-holder interests, including, but not limited to, a warranty deed, contract or property tax notice of the subject property.

(8) Applicable fee for processing and reviewing the dedication or vacation.

(b) Upon receipt of all application materials, as specified in subsection (a) of this section, the community development department staff shall furnish the following agencies and offices with a copy of the application for review and comment:

(1) Public works department.

(2) Water and sewer department.

(3) Fire department.

(4) Others.

(c) All such reviewing agencies and offices will be requested to review the application within two weeks from the date of distribution of all required application materials to make any objections or comments to community development department staff. This time period may be extended due to case load and complexity of applications. community development department staff shall include a summary of all comments received on the dedication or vacation, along with the staff recommendation, to the planning commission for consideration of such requests. See the illustration below for a description of the right-of-way dedication and vacation process.

(d) The planning commission shall consider requests for dedication or vacation of public right-of-way and shall consider all comments received as well as the staff recommendation in determining whether to approve, approve with conditions, deny or table the request for future consideration. If the planning commission determines that the right-of-way dedication or vacation request is not detrimental to the public health, safety or welfare and that

any request for vacation does not deprive any parcel of adequate access to a public road or street right-of-way, the commission shall recommend to the city council that the request be approved.

(e) The city council shall consider requests for dedication or vacation of public right-of-way and shall consider all comments received, as well as the staff and planning commission recommendations in determining whether to approve, approve with conditions, deny or table the request for future consideration. If the city council determines that the right-of-way dedication or vacation request is not detrimental to the public health, safety or welfare and that any request for vacation does not deprive any parcel of adequate access to a public road or street right-of-way, the city council shall approve the request.

(f) After approval of a right-of-way dedication or vacation, the city clerk shall record a copy of the scale drawing or illustration and legal description in the county clerk and recorder's office.

[GRAPHIC - Right-of-way dedication and vacation process]

(Code 1994, § 18.04.810; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003; Ord. No. 4, 2006, § 1, 1-17-2006)

Secs. 24-271--24-288. Reserved.

ARTICLE IX. FILING PLAT

Sec. 24-289. Purpose.

The purpose of this article is to set forth procedures and requirements for filing plats.

(Code 1994, § 18.04.900; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-290. Application and process.

(a) A filing plat may be required for planned unit developments (PUDs) and shall be submitted and reviewed as part of the final PUD request. Filing plats shall not require a separate subdivision action. The filing plat is the instrument for legally subdividing property which is part of or within an approved PUD and shall be in compliance with applicable approved planned unit development plans.

(b) A filing plat shall contain all applicable information as required on a final plat as provided in section 24-196.

(Code 1994, § 18.04.910; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Secs. 24-291--24-313. Reserved.

ARTICLE X. CORRECTION PLAT

Sec. 24-314. Purpose.

The purpose of this article is to set forth procedures and requirements for correction plats.

(Code 1994, § 18.04.1000; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-315. Application and process.

(a) Correction plats shall be used only for the purpose of correcting one or more technical errors in an approved plat.

(b) The correction plat shall be consistent with the approved final plat except for those technical errors which are to be corrected.

(c) The review of a correction plat shall be limited to those technical errors to be corrected and shall follow the process in section 24-224 for minor plat review. Upon review of a correction plat, the community development director may approve the plat and shall record a copy of the signed correction plat in the county clerk and recorder's office.

(Code 1994, § 18.04.1010; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Secs. 24-316--24-333. Reserved.

ARTICLE XI. DESIGN AND PERFORMANCE STANDARDS

Sec. 24-334. Purpose.

The purpose of this article is to set forth the design and performance standards for the layout of subdivisions.

(Code 1994, § 18.04.1100; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-335. Application of standards.

The design and performance standards contained in this article shall apply to all subdivision plats, including minor, preliminary and final plats, and PUDs. All applicable design and performance standards adopted by the city shall also apply to all subdivisions.

(Code 1994, § 18.04.1110; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-336. Site considerations.

(a) Steep or unstable land or lands with expansive soils and areas having inadequate drainage shall not be subdivided into building lots unless the subdivider makes adequate provisions to prevent the same from endangering life, health or property. The subdivider shall provide appropriate mitigation measures to adequately address the problems created by unsuitable land conditions. Those portions of the property which continue to be unsuitable for development after the application of mitigation measures shall be subdivided into restricted tracts or lots designated on the plat as common areas to be maintained and managed by the property owner or owner's association for the subdivision, unless the tracts or lots are determined by the planning commission or community development director to have public value or are shown in the comprehensive plan as public park, open space or trail uses and are accepted for dedication by the city.

(b) Any lands subject to flooding or any natural drainage channels shall not be platted as building lots or envelopes unless adequate provisions to eliminate or control flood hazards in the subdivision or on other affected lands are made by the subdivider. In addition, all subdivision proposals shall be consistent with the need to minimize flood damage; shall have public utilities and facilities, such as water, sanitary sewer, natural gas, electrical and telephone systems located and constructed to minimize flood damage; shall have adequate drainage provided to reduce exposure to flood damage; base flood elevation data shall be provided on the plat and for other proposed development which contains at least 50 lots or building envelopes or five acres (whichever is less); all streets and bridges within an identified floodway must be constructed so that the regulatory flood protection elevation will not be changed; and no change to any channel shall decrease the carrying capacity of the altered channel. Soil loss and erosion from land disturbed during construction is prohibited. All new buildings located in identified 100-year floodplains with base flood elevations must be constructed on properly designed and compacted fill (ASTM D-698 or equivalent) that extends beyond the building walls before dropping below the base flood elevation and has appropriate protection from erosion and scour. The design of the fill or fill standard must be approved by a registered professional engineer.

(c) If any part of a residential subdivision borders a railroad right-of-way, either a street which is parallel to such right-of-way, or a landscaped 50-foot buffer strip adjacent to the right-of-way shall be required, or the lots or building envelopes adjacent to the railroad right-of-way shall have a minimum depth of 150 feet.

(d) Existing features which would add value to a subdivision or to the city, such as large trees, watercourses, historic sites or areas or similar irreplaceable features, shall be preserved in the subdivision to the greatest extent practicable and the subdivision shall be designed around such features, so that such features to be preserved shall not be damaged before or during construction.

(e) Other existing facilities on the site, including, but not limited to, oil and gas production facilities and utility lines and facilities and their respective easements, shall be considered in the design and construction of the site so that any existing operation and/or maintenance of such facilities is not damaged or impeded by construction activities or development of the site.

(Code 1994, § 18.04.1120; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-337. Streets, alleys and easements.

(a) Streets on a subdivision plat shall conform to the design and performance standards of the city, where applicable.

(b) All streets shall be aligned to join with planned or existing streets and shall be designed to bear a logical relationship to the topography of the land.

(c) Intersections of streets shall be at right angles unless otherwise approved by the engineering development review and civil inspections manager or their designee.

(d) A minimum of two points of access shall be required for all property; except where the fire authority may approve a maximum of 50 dwelling units with a single point of access, provided that all dwelling units on the single point of access have a fully automatic fire sprinkler system installed.

(e) Cul-de-sacs shall be permitted only if they are not more than 500 feet in length, measured from the center of the street intersection to the center of the cul-de-sac radius, and have a turnaround at the end thereof, with a diameter of the right-of-way at least 100 feet. Surface drainage on a cul-de-sac shall be toward the intersecting street, if possible and if not possible, a drainage easement shall be provided from the cul-de-sac.

(f) Except as provided above for cul-de-sacs, no dead-end streets shall be permitted except in cases where such streets are designed to connect with future streets on adjacent land, in which case, a temporary turnaround easement at the end thereof, with a diameter of at least, 80 feet shall be provided. Such turnaround easement shall not be required if no lots in the subdivision are dependent on such street for access.

(g) In the event that residential lots in a subdivision are adjacent to arterial or major collector streets, no access to individual lots from such arterial or major collector streets shall be permitted. Lots adjacent to an arterial street shall have a minimum depth of at least 150 feet in length.

(h) Pedestrian and bicycle access and circulation shall be required to provide convenient, safe and visible circulation systems for pedestrians and bicyclists and to provide logical linkages between the origins and destinations of pedestrians and bicyclists. Pedestrian and bicycle level of service criteria relating to route directness, continuity, street crossings, amenities and security shall follow the criteria found in the 2002 city comprehensive transportation plan. Dedication of pedestrian and bicycle lanes, paths and trails may be required under section 24-340(a).

(i) The subdivider shall not be permitted to reserve a strip of land between a dedicated street and adjacent property for the purpose of controlling access to such street from such property, except with the permission of the city and, in any event, only if the control of such strip is given to the city.

(j) Streets shall meet the following design standards, unless otherwise provided for in this Development Code:

Street Design Standards	
Classification of Street	Standard Right-of-Way Width
Parkway Arterial	140 feet
Major Arterial	135 feet
Minor Arterial	110 feet
Major Collector	100 feet
Minor Collector	75 feet*
Major Local	80 feet*
Local Commercial/Industrial	50 feet*
Local Residential	50—60 feet*
Local--Low Volume	50 feet*

*The use of performance options as provided for in article VI of chapter 8 of this title for street widths may alter the required right-of-way.

(1) Additional street design information may be found in the city street design and development standards.

(2) The full right-of-way width of streets shall be dedicated and half-streets shall only be accepted by the planning commission or community development director when it is demonstrated that such a dedication conforms to the transportation plan of the city.

(3) In cases where any part of an existing road is in the tract being subdivided, the subdivider shall dedicate such additional rights-of-way as may be necessary to increase such roadway to the minimum width required under this chapter for such streets.

(k) Alleys and other easements shall be controlled by the following requirements:

(1) Alleys in residential subdivisions shall not be permitted except in cases when the same are necessary and desirable to continue an existing pattern, or where approved as a performance option under this Development Code.

(2) Alleys shall be provided in commercial and industrial areas unless other provisions are made and approved for service access.

(3) Alley access to off-street parking areas from the adjacent alley shall be limited to one access point not to exceed 12 feet in width for the purposes of ingress and egress from the alley to parking lots. Alley access to residential garages or parking pads may be 20 feet in width.

(4) Easements of such widths as are necessary shall be provided on all lot lines for utilities. Where alleys are permitted, they may be used as a substitute for easements.

(5) Storm drainage easements shall be provided as required and approved by the engineering development review and civil inspections manager or their designee.

(6) Water and sewer easements shall be provided as required by water and sewer design standards and approved by the water and sewer director when not completely located in the public right-of-way.

(7) The subdivider shall be responsible for adequate provisions to eliminate or control flood hazards associated with the subdivision. Agreements concerning stormwater drainage between private parties shall be subject to city review and approval.

(Code 1994, § 18.04.1130; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 14, 2003, § 1, 3-18-2003; Ord. No. 04, 2008, § 5, 2-5-2008; Ord. No. 30, 2019, § 1, 7-2-2019)

Sec. 24-338. Blocks.

(a) In order to provide for safe and convenient access locations, all blocks in a subdivision shall have dimensions of at least 260 feet on every side, but no more than 1,320 feet. The foregoing distances shall be measured from centerlines of abutting through-streets.

(b) Blocks shall be of sufficient width to accommodate two tiers of lots having appropriate depth. Lots abutting major collector and arterial streets may be exempted from the requirements of this section.

(c) Blocks adjacent to arterial streets and railroad rights-of-way shall be permitted to vary from the maximum block length requirements in order to mitigate the impact of these facilities on the subdivision.

(Code 1994, § 18.04.1140; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-339. Lots and building envelopes.

(a) All lots or building envelopes in a subdivision shall conform to applicable zoning requirements of the city.

(b) Each lot or building envelope shall have vehicular access to a public right-of-way or access which is legal and perpetual.

(c) Lot or building envelope arrangement shall be organized so that there will be no foreseeable and substantial difficulties in achieving compliance with the requirements of this chapter.

(d) Where proposed lots are more than twice the size of the minimum lot permitted for the zoning district in which the proposed subdivision is located, the lots shall be arranged in such a manner that any further subdivision is able to meet the minimum requirements of this Development Code.

(e) Double-frontage lots shall not be permitted except for lots which abut, but do not have access from, major collector or any arterial streets.

(f) Side lot lines shall be substantially at right angles or radial to street lines.

(Code 1994, § 18.04.1150; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003; Ord. No. 04, 2008, § 5, 2-5-2008)

Sec. 24-340. Dedications for public sites, bike lanes, paths and trails.

(a) A subdivider shall be required to dedicate rights-of-way for pedestrian and bicycle lanes, paths and trails and drainage and utility easements as needed to serve the area being platted and to provide for future development of adjacent lands. Section 24-337(h) provides additional information regarding pedestrian and bicycle lanes, paths and trails. In addition, rights-of-way and/or easements shall be required for subdivisions adjacent to the route of existing or proposed trails, to provide for the trail location and for pedestrian and bicycle access from the subdivision to the trail.

(b) Reservation of sites for flood control purposes and other public and municipal uses, such as a recreational trail, shall be mutually agreed upon between the subdivider and the city.

(c) Nothing in this chapter shall be construed as relieving a subdivider of the obligation to pay drainage fees, park fees or other fees or payments required by city ordinances.

(Code 1994, § 18.04.1160; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-341. Dedication of land for the development of parks.

(a) A subdivider shall be required to dedicate land suitable for the development of parks as needed to serve the area being subdivided and to provide for future development of adjacent lands. Where no suitable land is available in the proposed residential development, the subdivider shall provide the city the cash-in-lieu equivalent of the land value.

(b) The following formula is used to calculate the minimum amount of land dedication required in residential developments to provide the needed parks. This formula is based on 9.75 acres/1,000 population total, with an average household of 2.7 people per dwelling unit.

Neighborhood Park	=	Dwelling units × 0.00325 acres/person
Community Park	=	Dwelling units × 0.0035 acres/person
Sports Complex Park	=	Dwelling units × 0.0015 acres/person
Regional Park	=	Dwelling units × 0.0015 acres/person
Total acres	=	Dwelling units × 2.7 persons/unit × 0.00975 acres/person

(c) The city reserves the right to adjust the acreage requirement between the four park categories as deemed necessary to meet specific needs and to determine the amount of developed park acreage required based upon recommendations by the cultural, parks and recreation department.

(d) For the purposes of calculating the required dedication, existing dwelling units within a subdivision shall be excluded from the calculation of the park requirement.

(e) Where multifamily units are proposed, or in other similar situations where a final unit count cannot be determined, land dedication shall be based on an assumed average density. Multifamily density shall be assumed at 20 dwelling units per acre but may be adjusted by the city where extenuating circumstances such as topography or

zoned density exist. In most cases, land dedication associated with multifamily uses will be allowed to be met by cash-in-lieu, as considered below.

(f) Land proposed for park dedication shall be clearly identified on any submitted plat including the number of acres for each site and the total acreage proposed for city park dedication within the project.

(g) The dedication of land to the city shall be by warranty deed, and the title shall be free and clear of all liens and encumbrances, including real property taxes prorated to the time of dedication. The subdivider shall provide the city with a title insurance policy in the city's name and a certified survey at the time of conveyance.

(h) Land dedicated for parks shall include adequate site access, installation of curb, sidewalks, and storm drainage systems, and the necessary water rights or other available water service to provide for irrigation and drinking water.

(i) Community park and/or sports complex park land shall be dedicated to the city prior to recordation of the first final plat for the subdivision as defined by the preliminary plat. Neighborhood park land shall be dedicated at the time of the final plat for the area to be served by the neighborhood park.

(j) Cash-in-lieu of land dedication shall be used in cases in which the cash value of land is deemed, by the city, to be more appropriate in satisfying the needs of the proposed subdivision than land within the proposed subdivision. Such cases include, but are not limited to, small developments not able to meet the minimum land size requirement, locations with disadvantageous topography or access or developments which already have adjacent facilities that could be expanded to satisfy the need created by the proposed development.

(k) The city shall make a final determination of the method by which the dedication requirements will be satisfied.

(l) When a combination of both land and cash-in-lieu of land is requested by the city, the following formulas shall be used:

Step 1)	Total land dedication in acres required
	- Acreage accepted
	= Total remaining acreage needed
Step 2)	Total remaining acreage needed
	× Value/acre as determined by subsection (m) of this section
	= Cash-in-lieu amount required

(m) The city will adopt a pre-determined per acre cash-in-lieu of land for parks amount, that may be administratively adjusted periodically and will be available on file with the community development department. The pre-determined amount will be based on a mass appraisal performed by an independent qualified appraiser using generally accepted appraisal practices. As an alternative to the city's predetermined cash-in-lieu amount, the subdivider may submit a proposal for determination of the cash-in-lieu amount. The proposal shall supply supporting information, including at least one report by an independent, qualified appraiser using generally accepted appraisal practices. The supporting information supplied must be adequate to allow the city to evaluate the proposed amount. If the city determines that the alternate proposal is not adequately supported, the city's predetermined cash-in-lieu amount will be applied.

(n) The cash-in-lieu amount will be paid at the time the plat is recorded, unless otherwise determined by the city.

(o) The city reserves the right to adjust the cash-in-lieu requirement between the four park categories as deemed necessary to meet specific needs.

(p) In no instance is the requirement for land dedication, or cash-in-lieu thereof, intended to discourage or prohibit the creation of pocket parks or other open lands features, as may be operated and owned by a homeowners' association or other governing entities for any other public, quasi-public or private purpose.

(Code 1994, § 18.04.1165; Ord. No. 11, 2017, § 2(exh. B), 4-4-2017)

Sec. 24-342. Required improvements prior to issuance of building permit.

(a) No improvements to an approved residential subdivision shall occur unless all applicable permits have been issued by the city. The following improvements and plans shall be required prior to the issuance of a building permit in a residential subdivision:

(1) Survey monuments. As required per applicable adopted city specifications.

(2) Sanitary sewers. The subdivider shall install main lines and service lines to each lot, as required per applicable adopted city specifications, which includes, but is not limited to, testing and acceptance of said sanitary sewer lines.

(3) Water mains. The subdivider shall install main lines and service lines to each lot, as required per applicable adopted city specifications, which includes, but is not limited to, testing and acceptance of said water lines.

(4) Fire protection. Hydrants shall be installed and active according to city fire department protection guidelines.

(5) Storm drainage. The subdivider shall install storm sewers, culverts, detention facilities, bridges and any other approved components where required, as per applicable adopted city specifications.

(6) Streets and alleys. Streets and alleys shall be completed as required per applicable adopted city specifications.

(7) Street signs shall be installed, as required per applicable adopted city specifications.

(8) Sidewalks shall be installed, as required per applicable adopted city specifications.

(9) Stormwater management plan (SWMP) shall be installed and maintained as required per applicable adopted city, state and federal specifications and accepted construction drawings.

(10) Dust abatement and erosion control plan, as required per applicable adopted city, state and federal specifications.

(11) Certified record drawings of as-built conditions for the subdivision shall be submitted to the city. The project contractor shall certify that the project was constructed as shown on the approved construction drawings, staked in the field by the project surveyor and any field changes shown on the as-built record drawings. The project surveyor shall certify the project was staked per the approved construction drawings, all field-verified information is correct and all field changes known to the surveyor are shown. The project engineer shall certify that they have reviewed the record drawings of as-built conditions, have verified all field changes known to them and certify that the project is in compliance with city standards, as a minimum and will function as designed or better.

(b) No improvements to an approved commercial or industrial subdivision shall occur unless all applicable permits have been issued by the city. The following improvements and plans shall be required prior to the issuance of a building permit in a commercial or industrial subdivision:

(1) Survey monuments. As required per applicable adopted city specifications.

(2) Sanitary sewers. The subdivider shall install main lines and service lines to each lot, as required per applicable adopted city specifications, which, includes, but is not limited to, testing and acceptance of said sanitary sewer lines.

(3) Water mains. The subdivider shall install main lines to and through the subdivision and service lines to each lot as required per applicable adopted city specifications, which includes, but is not limited to, testing and acceptance of said water lines.

(4) Fire protection. Hydrants shall be installed according to city fire department protection guidelines.

(5) Stormwater management plan (SWMP) shall be installed and maintained as required per applicable adopted city, state and federal specifications and accepted construction drawings.

(6) Streets and alleys. Streets and alleys shall be completed as required per applicable adopted city specifications.

(7) Dust abatement and erosion control plan shall be installed and maintained as required per applicable adopted city specifications. This may include measures exceeding original design due to weather or other unforeseen circumstances.

(8) Sidewalks shall be installed, as required per applicable adopted city specifications.

(9) Certified record drawings of as-built conditions for the subdivision shall be submitted to the city. The project contractor shall certify that the project was constructed as shown on the approved construction drawings, staked in the field by the project surveyor and any field ranges shown on the as-built record drawings. The project surveyor shall certify the project was staked per the approved construction drawings, all field-verified information is correct and all field changes known to the surveyor are shown. The project engineer shall certify that they have reviewed the record drawings of as-built conditions, have verified all field changes known to them and certify that the project is in compliance with city standards, as a minimum and will function as designed or better.

(c) In lieu of the completion of all requirements in subsection (a) or (b) of this section, the subdivider is hereby granted the option of receiving building permits for a subdivision upon the posting of a financial guarantee acceptable to the city, in the amount of 125 percent of the total cost of all required improvements for completion of the subdivision. In no event shall the subdivider be permitted to construct and use streets and alleys with surfacing which do not provide, at a minimum, an all-weather access for construction and emergency equipment. All-weather access is defined as a surface being of concrete, asphalt or road base placed on the lip of the curb and gutter. Postponement of complete paving is intended for cold weather when paving is not permitted per adopted standards or due to material availability. Other than subsections (a)(6) and (8) or (b)(6) and (8) of this section, no other improvements may be postponed. Subsection (b)(6) of this section shall, at a minimum, have curb and gutter installed.

(Code 1994, § 18.04.1170; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-343. Required improvements prior to issuance of certificate of occupancy.

The following improvements and plans shall be required prior to the issuance of a certificate of occupancy:

(1) Streetlights. Streetlights shall be installed according to applicable adopted city specifications.

(2) Sidewalks shall be installed, as required per applicable adopted city specifications.

(3) Perimeter treatment plan shall be installed, as required per applicable adopted city specifications. Where development is to be phased, the installation of the perimeter treatment plan may be phased as long as a financial guarantee for 125 percent of the total cost of the remainder of the perimeter treatment plan is accepted and approved by the city.

(4) Utilities (telephone, electrical service, gas lines and cable television). All utilities shall be installed underground and, where applicable, shall be in place prior to street or alley surfacing. Aboveground facilities necessarily appurtenant to underground facilities or other installation of peripheral overhead electrical transmission and distribution feeder lines or other installation of either temporary or peripheral overhead communications, distance, trunk or feeder lines may be above ground. No curb, gutter or sidewalk shall be installed until all utilities are provided.

(5) Streets. All streets shall be paved and all other improvements such as sidewalk, bike paths, curb and gutter shall be installed as required. In cases where a previously existing street which has not been brought up to city specifications is located within a subdivision, such street shall be paved and all other improvements such as sidewalk, bike paths, curb and gutter shall be installed in order to meet city specifications. If any subdivision is located adjacent to any existing street right-of-way, the subdivider shall improve at least the adjacent half of such street as required to bring such street to city specifications. If any subdivision contains dedicated half-streets under the provisions of these regulations, those half-streets shall be improved with curb, gutter, sidewalk and paving consistent with city standards.

Subdividers shall meet the requirements of section 24-337(j) of these regulations but shall not be required to provide improvements for any arterial street except as required to mitigate the impacts associated with a particular development.

(6) Other. All other improvements required as a condition of approval of the plat or contained within the development agreement shall be completed.

(7) Under extenuating circumstances, including, but not limited to, inclement weather or material or other shortages, buildings may be approved for occupancy if the building inspection department, with concurrence from other affected city departments, determines that:

a. Required improvements under sections 24-342(a) or (b) and subsections (b)(1) through (6) of this section or improvements approved by the city and made in lieu of said required improvements are made;

b. The structure is safe for occupancy; and

c. It complies with applicable sections of the uniform building code.

In addition, issuance of the occupancy certificate shall be contingent upon approval of the city, which may require a financial guarantee, as required under other adopted city regulations, to assure completion and payment for all improvements.

(Code 1994, § 18.04.1180; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-344. Procedure.

(a) No improvements shall be made until all required plans, profiles and specifications for the same have been submitted to and approved by the city. Exceptions may be made with the concurrence from the public works, water and sewer and other affected city departments.

(b) A certificate of completion for required improvements shall not be issued until all required improvements per section 24-343 have been completed and accepted.

(Code 1994, § 18.04.1190; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 14, 2003, § 1, 3-18-2003)

Secs. 24-345--24-361. Reserved.

ARTICLE XII. APPEALS

Sec. 24-362. Purpose.

An appeal shall provide for review of a final decision made by the community development director or the planning commission on subdivisions and related matters included in this chapter.

(Code 1994, § 18.04.1200; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-363. Application and process.

(a) A final decision by the community development director regarding final plats, minor plats, easement dedications or vacations and lot line adjustments may be appealed by the applicant or subdivider to the planning commission and to the city council. The decision of the planning commission on appeal shall be final, unless the applicant or subdivider elects to appeal the planning commission decision to the city council, in which case, the decision of the city council shall be final.

(b) A final decision by the planning commission regarding variances or preliminary plats may be appealed by the applicant or subdivider to the city council. The decision of the city council shall be final.

(c) The appellant shall submit a written appeal to the community development department within ten working days of the date of final decision of either the community development director or the planning commission. The appeal shall be in writing and shall include the basis for appeal, decision of either the community development director or the planning commission, the related sections of this chapter and applicable appeal fee.

(d) The community development department shall place the appeal on the planning commission or city council agenda for consideration as expeditiously as possible.

(e) An appeal shall be limited to that information previously submitted for decision and no new information, documentation or testimony shall be considered on appeal. Upon conclusion of the appeal hearing, the applicable body shall, by a majority vote of that body, uphold, overturn or modify the decision of the community development director or planning commission, or remand the item for reconsideration by the applicable body. The decision on appeal shall be in the form of findings as reflected in the minutes of the appeal hearing and shall be provided in writing to the parties within 30 days of consideration of the appeal.

(Code 1994, § 18.04.1210; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Sec. 24-364. Stipulations.

(a) On written request of the appellant and/or the city and after agreement of the appellant and the city, the time limit set forth in the appeal procedure may be extended.

(b) Failure on any part of the appellate decision maker to reply within the stated or agreed time limit will be considered denial of the appeal.

(c) If the appellant does not file and/or submit the notice of appeal within the stated or agreed time limits, including all those items required by subsection 24-363(c), the matter shall be considered to have been withdrawn.

(d) Except as otherwise stipulated, appeal hearings are informal hearings. Such hearings shall not be bound by any formal rules of evidence. The body responsible for the appeal hearing has the sole authority to determine the procedures of the informal hearing.

(Code 1994, § 18.04.1220; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

Secs. 24-365--24-386. Reserved.

ARTICLE XIII. FEES, VIOLATIONS AND PENALTIES

Sec. 24-387. Processing and reviewing fees.

The planning commission shall recommend to the city manager, the establishment of fees to be charged to applicants or subdividers to cover the cost of processing and reviewing all items contained within this chapter, including, but not limited to, preliminary plats, final plats, minor plats, lot line adjustments, dedications and vacations of easements and dedications and vacations of rights-of-way. The city manager shall set the amount of this fee in accordance with section 1-38. Fees for construction permits are provided for in chapter 18 of this Code.

(Code 1994, § 18.04.1300; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 24-388. Violations and penalties.

(a) Any and all violations of the provisions of this chapter shall be subject to the penalties contained in chapter 9 of title 1 of this Code and any other penalties permitted under law.

(b) Whenever the ~~administrative authority~~ city manager or designee determines that a person is violating or failing to comply with any provisions of this chapter, the ~~administrative authority~~ city manager or designee may immediately issue a cessation order causing the person to immediately cease all operations which violate and fail to comply with this chapter until such person has complied with the provisions of this chapter. This order of cessation of activities is additional to any other penalties or remedies otherwise allowed by law.

(c) The city may seek and obtain remedies provided by law, including, but not limited to, civil and criminal penalties and temporary or permanent injunctive relief against persons for noncompliance with the provisions and requirements of this chapter.

(Code 1994, § 18.04.1310; Ord. No. 51, 1998, § 1, 9-1-1998; Ord. No. 14, 2003, § 1, 3-18-2003)

~~Article XIV Severability~~

~~**Sec. 18.04.1400 Severability.**~~

~~The sections, subsections, sentences, clauses and phrases of this chapter are severable and if any phrase, clause, sentence, subsection or section of this chapter is declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, subsections and sections of this chapter.~~

~~(Code 1994, § 18.04.1400; Ord. 14, 2003, § 1, 3-18-2003; Ord. 51, 1998, § 1)~~

Secs. 24-389--24-419. Reserved.

CHAPTER ~~18.16.~~ 4. SUBMITTAL REQUIREMENTS AND REVIEW PROCEDURES

ARTICLE I. GENERALLY

Sec. 24-420. Purpose and intent.

The purpose of this chapter is to provide a listing of all information that is required to be shown graphically on site plans, landscape plans and architectural elevations, so that these plans and elevations provide adequate detail to be used in the review and decision-making on land use and development applications.

(Code 1994, § 18.16.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-421. Application.

(a) These requirements shall apply to any land use or development application which requires a site plan, landscape plan and/or architectural elevations as part of a submittal to the city, including, but not limited to, permitted uses, design review of permitted uses, uses by special review, establishment of zoning, rezoning and planned unit developments unless otherwise provided the application and submittal requirements outlined here apply for all applications made under this Development Code.

(b) Requirements for site plans where neither a preliminary nor final site plan is specified, shall be presumed to require a final site plan, and all such related requirements shall be provided.

(c) The submittal of an incomplete application shall result in a delay in the processing of the application until it is deemed complete by the community development department staff. For the purposes of this Development Code, a complete application means an application which has all applicable, required information provided in either graphic or narrative form and which has been submitted to the community development department with the correct number of copies and in an appropriate format. The applicability of a requirement of this Development Code or information listed in this chapter to a specific site shall be determined by the community development director and shall be used for the purposes of determining whether a submittal is complete.

(d) ~~Appendix 18-C of this title contains~~ Detailed checklists of submittal requirements for all types of development applications are on file in the city clerk's office.

~~APPENDIX 18-C Checklists~~

~~(Checklists to be added)~~

(Code 1994, § 18.16.020, app. 18-C; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-422. Site plan requirements.

(a) The following information and data may be required depending upon the specific type of land use application made and, where required, shall be shown graphically or by note on site plans and may comprise several sheets showing various elements of required data, drawn at an engineering scale having not more than 100 feet to one inch and shall be provided on drawings measuring 24 by 36 inches. Applicants should verify the exact information required for the land use proposed prior to submitting a formal application.

(1) Title by which development is to be referred and name, address and telephone number of site plan designer.

(2) Scale, north arrow and date of preparation.

(3) Location of municipal boundaries at or near the development.

(4) Parcel size in gross acres and square feet.

(5) Total number, type and density per type of dwelling units.

(6) Total bedrooms per dwelling unit type.

(7) Residential density, both gross and net.

(8) Estimated total floor area and estimated ratio of floor area to lot size, with a breakdown by land use.

(9) Proposed coverage of buildings and structures, including the following:

a. Percentage and square footage of building coverage.

b. Percentage and square footage of driveways and parking.

c. Percentage and square footage of public street rights-of-way.

d. Percentage and square footage of open space and/or landscaped area.

e. Percentage and square footage of usable open space area.

f. Percentage and square footage of patios, sidewalks and other hard surfaced areas.

(10) Number and location of off-street parking, including guest, disabled, bicycle and motorcycle parking and including typical dimensions of each, as well as any areas proposed for shared or reduced parking and related narrative information.

(11) Topographic contours at two-foot intervals, identification of areas on the site containing slopes in excess of 15 percent and the proposed area of disturbance on the site.

(12) Watercourses, water bodies and irrigation ditches and all identified floodplains.

(13) Unique natural features, high- and moderate-impact areas from the areas of ecological significance map and vegetative cover, including existing trees having a diameter greater than 2 1/2 inches and shrubs over five gallons in size.

(14) Identification of all setback lines, including setback performance options.

(15) Tentative location and floor area of existing and proposed buildings.

(16) Boundary and square footage of each area designated as usable open space and other open space areas.

(17) Location and acreage of all public and semi-public land uses including public parks, recreation areas, school sites and similar uses.

(18) Location of existing and proposed pedestrian and bicycle circulation system, including its interrelationships with the vehicular circulation system and indicating the proposed treatment of points of conflict.

(19) Maximum building height of all structures, including height performance options.

(20) The existing and proposed circulation system of arterial, collector and local streets, including street width performance options, off-street parking areas, service areas, loading zones and major points of access to public rights-of-way including major points of ingress and egress to the development. Notations of proposed street ownership, public or private, should be included where appropriate.

(21) Existing and proposed zoning.

(22) Proposed signage, including location, height, dimensions, lighting and colors of all signage.

(23) Listing of specific land uses being proposed and general location of each use.

(24) Area shown on the site plan shall extend beyond the property lines of the proposal to include the area and uses within ~~one hundred (150)~~ 100 feet of the proposal, exclusive of public right-of-way, at the same scale as the proposal and including the following:

a. Land uses and location of principal structures.

b. Densities of residential uses.

c. Existing trees with a diameter of greater than 2 1/2 inches and major features of landscape.

d. Topographic contours at two-foot intervals.

e. Traffic circulation system.

f. Oil and gas production facilities, including well heads, flow lines, transmission lines, gathering lines, tank batteries and access roads within 1,000 feet of the subject property for determining high density for oil and gas purposes.

(25) Vicinity map of the area surrounding the site within a distance of at least one-half mile, showing:

a. Zoning districts.

b. Location of existing municipal boundary lines.

c. Traffic circulation systems.

d. Major public facilities (schools, parks, etc.).

(26) Lighting information, including location, type, style and height of lighting fixtures, wattage of lights, average footcandles across the site and other properties of lights (i.e., cut-off, wall pack, etc.).

(27) Statement of all variances to city design standards and criteria.

(28) Location, dimensions and setbacks of all known oil and gas production facilities on site, including well heads, flow lines, transmission lines, gathering lines and tank batteries, as well as access roads to the site.

(29) Clear vision or sight distance triangles on all affected lots or areas.

(30) Location and dimensions of all easements, including, but not limited to, easements for utilities, access, parking, trails, landscaping and drainage.

(31) Owner's certification of acceptance of conditions and restrictions as set forth on the site plan.

(32) Lot lines, easements and public rights-of-way, as per final subdivision plat.

(33) Measured location of all buildings and structures dimensioned on at least two sides to the nearest platted property lines.

(34) Existing and proposed streets with names and locations of private roads to be dedicated as public utility and/or access easements.

(35) Location of temporary model homes, sales office and/or construction facilities, including temporary signs and parking lots.

(36) Other information as the community development director may require to ensure a complete and comprehensive review of the proposed plan.

(b) In addition to the site plan, the following items, as may be determined applicable by planning department staff, shall be provided for a complete submittal:

(1) Application form and any fees associated with the review of the project.

(2) Current written evidence of ownership or interest in ownership, including, but not limited to, a warranty deed, contract or property tax notice of the subject property.

(3) Certification that written notice was mailed to mineral rights owners and lessees at last-known address of record and that a legal notice was placed in a local newspaper by the applicant regarding the proposal.

(4) Written project narrative, describing the nature and characteristics of the project, including city land use policies achieved by the plan and how the plan meets all applicable performance standards, including the selection of performance options being requested.

(5) Mailing list of affected properties as provided in article II of chapter 5 of this title in a form acceptable to the community development department.

(6) For infill sites, information on building height and wall length and width of existing principal residential

structures on the block face and addressing all applicable design review performance standards from chapter 12 of this title.

(7) One 8 1/2 inches by 11 inches reduction of the preliminary site plan.

(8) One copy of the legal description.

(Code 1994, § 18.16.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-423. Landscape plan requirements.

(a) The following information and data shall be shown graphically or by note on landscape plans and may comprise several sheets showing various elements of required data, drawn at the same scale as the site plan and shall be provided on drawings measuring 24 inches by 36 inches. Site and landscape plans may be combined as long as all required information is legible. The tree and shrub lists in section 24-1144(a)(11) should be used for selecting plants.

(1) Location, type and size of all existing vegetation to be preserved, as well as notes describing measures proposed to protect existing trees during construction.

(2) Location of all structures, freestanding signs, lights, parking areas, drives, vehicular use areas, drainage and stormwater detention areas and other improvements to remain or proposed for installation on the property.

(3) Location of overhead power lines, property lines, curblines, utility boxes and structures and adjacent rights-of-way.

(4) Location, type, size and quantity of all proposed landscape materials, including materials between the property line and pavement edge, proposed phasing of installation, if applicable, shown at ten years' maturity and in appropriate relation to scale. Identification and treatment of all required buffer yards. If used for screening or buffering purposes, landscape materials shall be shown at three years' maturity.

(5) Flower and shrub beds drawn to scale with dimensions.

(6) Plant list, including quantity of all proposed landscape materials and botanical and common names meeting the minimum sizes as provided as follows, unless otherwise required by the community development director:

Minimum Plant Size	
Plant Type	Minimum Plant Size
Deciduous trees	2" caliper, measured 1 foot above ground
Ornamental trees	11/2" caliper, measured 1 foot above ground
Evergreen trees	6 feet in height
Shrubs	5-gallon

(7) Proposed treatment of all ground surfaces clearly indicated (paving, turf, gravel, grading, etc.).

(8) General notes, including mulching requirements, soil amendments, fertilization and installation details and such other information as needed.

(9) Planting details as needed.

(10) Clear vision sight distance triangle.

(11) Tabulations which show relevant information necessary to evaluate compliance with provisions of chapter 11 of this title, including, but not limited to, required buffers, interior parking lot landscaping and screening, foundation plantings and any such other information as needed.

(12) Written narrative describing the type, location and proposed treatment of all required buffer yards,

including buffer yard width, plant materials and any other proposed features such as berms, walls or fences.

(13) One 8 1/2 inches by 11 inches reduction of the landscape plan.

(14) Other information as the community development director may require to ensure a complete and comprehensive review of the proposed plan.

(b) An approved landscape plan in need of minor revisions to plant materials due to seasonal planting problems or lack of plant availability may be revised and approved by the city, as long as the original intent of the approved landscape plan and the following criteria are met:

(1) There is no reduction in the total quantities of plant materials.

(2) There is no significant change in size or location of plant materials, except that it shall be acceptable to substitute two ornamental trees for one shade or evergreen tree. Substitutions for parking lot landscaping shall be as provided in section 24-1144(b).

(3) Proposed plant materials fall within the same general functional category of plants and have the same general design characteristics as the materials being replaced.

(4) The proposed plant materials are considered appropriate with respect to elements necessary for good survival and continued growth.

(c) An irrigation plan shall be required in conjunction with a landscape plan. The irrigation plan shall indicate use of a low-volume irrigation system designed specifically for the proposed landscape installation and which delineates planting zones and illustrates compliance with the requirements herein.

(d) Chapter 11 of this title provides additional information.

(Code 1994, § 18.16.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-424. Architectural elevations.

(a) The following information and data shall be shown graphically or by note on architectural elevations and may comprise several sheets drawn at an architectural scale and shall be provided on drawings measuring 24 inches by 36 inches.

(1) Sufficient detail to convey the architectural intent for all proposed buildings and structures including:

a. Building and structure height.

b. Pitch of roof.

c. All proposed building materials.

d. Primary architectural elements such as roof, windows and doors.

e. Proposed color schemes.

(2) One 8 1/2 inches by 11 inches reduction of the architectural elevations.

(3) Samples of building materials and colors.

(b) For infill areas, a written narrative describing how the proposed architectural treatment addresses compatibility with existing buildings and structures shall be provided. Refer to chapter 12 of this title for further information on compatibility.

(Code 1994, § 18.16.050; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-425. Zoning suitability plan.

The following items shall be required for a zoning suitability plan:

(1) Site analysis map showing the following existing conditions:

a. Area of property in square feet and/or acres;

b. Property boundaries and complete dimensions;

c. Boundaries of adjacent properties;

d. Topography at two-foot intervals;

e. Existing rights-of-way, streets, roadways and probable access points;

f. Existing utilities and easements;

g. Irrigation ditches, head gates and waste ditches;

h. Natural drainage patterns, bodies of water, watercourses, floodplains and floodway;

i. Significant vegetation, including trees;

j. Areas of ecological significance, including wetlands, steep slopes, etc.;

k. Existing structures and land uses; and

l. Existing oil and gas facilities and setbacks to such facilities.

(2) Zoning suitability map showing the following:

a. Approximate location and acreage of land for existing and proposed residential uses, including density and/or institutional, commercial and industrial uses and square footage;

b. Existing and proposed collector and arterial streets;

c. Proposed access points for the property;

d. Drainage patterns and proposed detention areas;

e. Proposed open space and trail areas, if known; and

f. Existing, proposed or relocating oil and gas facilities and setbacks to such facilities.

(3) The following reports shall be provided as part of the zoning suitability plan submittal:

a. Conceptual traffic impact study that provides a general description and designation of area streets, anticipated connections to area streets and relationship to the master transportation plan;

b. Written general description of how pedestrian access, circulation and connectivity will be addressed;

c. Conceptual drainage report and plan that provides a general description and location of existing drainage basins to which the site is expected to drain, and relationship to the master drainage plan;

d. Conceptual soils report that provides a general description of existing soils and associated characteristics;

e. Written description of setting of property (location of property with respect to compatibility with surrounding uses; location in special districts; unique aspects of property and its setting); and

f. Written description of relationship of the proposed zoning suitability plan to goals and policies of the land use chapter of the comprehensive plan.

(Code 1994, § 18.16.060; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 65, 2002, § 1, 12-17-2002)

Secs. 24-426--24-448. Reserved.

~~CHAPTER 18.18~~ ARTICLE II. NOTICE

Sec. 24-449. Purpose and intent.

The purpose of this chapter is to define the provisions for notice for neighborhood meetings and public hearings which are held on land use and development applications to give citizens an opportunity to provide input on such matters to the zoning board of appeals, planning commission or city council.

(Code 1994, § 18.18.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-450. Application.

(a) The requirements herein shall apply to all land use and development applications for which the city intends to provide notice and shall give area property owners an opportunity to become aware of and provide input on such applications. Public notice shall be provided for annexations, variances, uses by special review, rezonings, establishment of zoning, preliminary planned unit developments, final planned unit developments and appeals.

(b) Failure of the city to provide all forms of public notice as provided herein shall not affect the validity of any hearing or determination by the zoning board of appeals, the planning commission or city council.

(Code 1994, § 18.18.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-451. Neighborhood meetings.

(a) Neighborhood meetings shall be conducted by community development department staff upon request by interested residents in the area surrounding the subject property or when significant concern is expected. Neighborhood meetings shall provide an opportunity for neighborhoods to meet with the applicant and staff prior to the planning commission's review of a request for rezoning, establishment of zoning, use by special review or planned unit development, to learn more about and better understand the specifics of such requests. The developer or applicant should make every effort to involve neighborhood areas early in the project proposal and may do so at his own initiative.

(b) Community development department staff shall send a courtesy letter to the affected property owners to notify them of the particular request, the availability of information regarding the request including the information listed in subsection (b)(1) of this section and invite them to contact the staff if they desire a neighborhood meeting.

The following information is typically provided in the courtesy letter:

a. Name and address of the developer/applicant (or one name and address if there are multiple developers/applicants);

b. A general description of the subject property by reference to streets, if possible;

c. The zoning classification or specific use requested as applicable;

d. If known, the date, time and place of the planning commission or city council meeting; and

e. A statement that additional information about the request is available at the community development department.

(c) If sufficient response is received from the affected property owners, an informal neighborhood meeting will be held prior to the planning commission or city council's consideration of the request. The developer or applicant, or representative, is required to attend the neighborhood meeting.

(d) Community development department staff will introduce the request at the neighborhood meeting and inform those in attendance of general city procedures regarding the particular request. The developer or applicant will be available to make a presentation and/or answer questions about the request.

(Code 1994, § 18.18.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-452. Public meeting notice.

(a) Notification of a public meeting at which a land use or development application is to be considered shall be given by posting a sign on the property and publishing a notice in the newspaper. A courtesy notice shall also be mailed to those property owners on the mailing list, the boundaries of which shall be determined by such things as proximity to the subject site, size and height of the proposal for the subject site and the location of major roads. The boundaries of the area to be notified shall generally not exceed 500 feet. Public meetings which shall require public notice shall be those meetings which are conducted by the zoning board of appeals (variances), planning commission (uses by special review, final planned unit developments, appeals) and the city council (rezonings, establishment of zoning, annexations, preliminary planned unit developments or appeals).

(b) The following shall be provided for the various forms of notice:

(1) *Sign*. A sign of sufficient size to be readily visible by landowners of adjoining property shall be posted

in some prominent place on the property for seven or more consecutive days prior to the day of the meeting, with the exception of a city-initiated comprehensive rezone or a floodway rezone resulting from or required by a basin-wide flood study. The sign shall indicate that a proposal is pending on the property and shall also indicate where to obtain further information regarding the proposal.

(2) *Newspaper notice*. A notice shall be published in a newspaper of general circulation in the city in one issue at least five, but not more than 15 days prior to the day of the public meeting. Saturdays, Sundays and holidays shall be included for the purposes of computing time as provided herein. The notice for the newspaper shall include the following information:

a. A general description of the subject property by reference to streets, if possible;

b. The zoning classification, specific use or action requested as applicable;

c. The date, time and place of the public meeting; and

d. A statement that additional information about the request is available at the community development department.

(3) *Courtesy letter*. A courtesy letter shall be sent to all property owners on the mailing list and shall include the following information:

a. Name and address of the applicant/developer (or one name and address if there are multiple applicants/developers);

b. A general description of the subject property by reference to streets, if possible;

c. A legal description or abbreviated legal description of the property;

d. The applicable zoning classification, specific use or action requested;

e. The date, time and place of the public meeting; and

f. A statement that additional information about the request is available at the community development department.

(c) Not less than 30 days before the date scheduled for an initial public hearing on a land use or development application concerning subdivision, uses by special review or planned unit development, the applicant shall send notice, by First Class mail, to the mineral estate owner or lessee of any property wherein the surface estate and the mineral estate have been severed. Such notice shall contain the time and place of the initial public hearing, the nature of the hearing, the location of the property that is the subject of the initial public hearing, and the name of the applicant. The applicant shall send a copy of the notice letter and a list of addressees to the community development director. Where the mineral interest is not severed or leased from the surface ownership, a certification by the applicant to that effect must be submitted to the community development department to satisfy the notification requirement.

(Code 1994, § 18.18.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 4, 2006, § 1, 1-17-2006)

Secs. 24-453--24-472. Reserved.

~~CHAPTER 18.20~~ ARTICLE III. REVIEW PROCEDURES

Sec. 24-473. Purpose and intent.

This chapter is intended to detail the review procedures required for specific land uses in a particular zoning district, as defined on the table of principal land uses in chapter 8 of this title. These procedures include permitted uses, design review uses and uses by special review.

(Code 1994, § 18.20.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-474. Application.

(a) The provisions in this chapter shall apply to all land uses.

(b) Permitted use, design review and use by special review applications may require platting if the site is not

already part of a recorded subdivision. The community development department staff shall advise the applicant about any requirements for subdividing if applicable. Lots which existed on or prior to April 8, 1996, shall be considered legal lots and shall not be required to be subdivided unless the boundary of the lot is proposed to be altered.

(Code 1994, § 18.20.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-475. Permitted uses.

(a) Permitted uses (designated by "P" on the table of principal land uses) are those uses which are permitted by right in the zoning district and which are subject to review and approval by city staff to ensure that all applicable zoning district development standards in article VI of chapter 8 of this title, general performance standards in chapter 9 of this title, parking standards in chapter 10 of this title, landscaping and buffering standards in chapter 11 of this title and other applicable development standards such as overlay districts, hillside development standards and areas of ecological significance have been met. (See the illustration below for a description of the permitted use review.)

(b) Prior to making any building or site improvements, or applying for a grading or building permit, including the construction of a new building or the change of use of an existing building, a pre-application conference with the community development department staff is recommended to review the proposed site plan and landscape plan to determine if all zoning requirements as referenced under subsection (a) of this section have been met. Chapter 5 of this title contains a listing of the required information for such plans. If all requirements have been met, the applicant may apply for a building permit. If all requirements have not been met, the applicant shall change the proposed plans to meet all requirements prior to approval of a building permit or may appeal the decision of the community development department staff to the planning commission and the planning commission decision to the city council as provided in chapter 7 of this title.

[GRAPHIC - Permitted use review]

(Code 1994, § 18.20.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-476. Design review uses.

Design review (designated by "D" on the table of principal land uses) is for those uses which are permitted in the zoning district or for any use on infill sites and is subject to review and approval by city staff to ensure that all applicable zoning district development standards in article VI of chapter 8 of this title, all applicable general performance standards in chapter 9 of this title, off-street parking and loading standards in chapter 10 of this title, landscaping and buffering standards in chapter 11 of this title, all applicable design review performance standards in chapter 12 of this title and other applicable development standards such as overlay districts, hillside development standards and natural areas standards have been met. (See the illustration below for a description of the design review process.)

[GRAPHIC - Design review process]

(Code 1994, § 18.20.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-477. Review process for design review uses.

(a) Prior to making any building or site improvements, or applying for a grading or building permit, including the construction of a new building or the change of use of an existing building, a pre-application conference with community development department staff is recommended for all design review requests. The purpose of this conference is to ensure that the proposed use is allowed in the zoning district and that all of the applicable requirements of the district and applicable performance standards as referenced in section 24-476 are met by the proposed plans. Community development department staff may recommend that the applicant conduct the pre-application conference with the administrative review team (ART) in order to obtain comments from representatives of other city agencies and offices. In this case, the community development department staff shall inform the applicant of any application and scheduling procedures of the ART.

(b) After the pre-application conference, the applicant shall submit copies of a site plan, landscape plan and architectural elevations drawn to scale and containing dimensions, showing all applicable information listed in chapter 5 of this title. The site plan and landscape plan may be combined on one set of plans as long as all required

information can be provided in a legible manner. The number of copies of the site plan and landscape plan shall be determined by community development department staff.

(c) Community development department staff shall review the proposed site plan, landscape plan and architectural elevations to determine if all requirements have been met. If all requirements have been met, the applicant shall receive written approval on the application for a building permit from the community development director.

(d) The decision of the community development director on a design review application shall be considered final unless appealed by the applicant to the planning commission under the provisions of chapter 7 of this title. The decision of the planning commission on appeal shall be final, unless the applicant elects to appeal the planning commission decision to the city council, in which case the decision of the city council shall be final.

(Code 1994, § 18.20.050; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-478. Abandonment of design review.

If active and continuous operations authorized as a design review use are not carried on in a building or site which has received such approval during a continuous period of 36 continuous months, the design review use shall be considered abandoned and shall cease thereafter unless a new application for a design review use is approved under the provisions of this chapter or an extension has been approved under the provisions of section 24-486(b). The burden of proof to determine continuous use shall be on the property owner.

(Code 1994, § 18.20.055; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-479. Uses by special review.

Uses by special review (designated by "S" in the table of principal land uses) possess characteristics that require a public hearing to determine if the uses have the potential to adversely affect other land uses, transportation systems, public facilities or the like in the surrounding neighborhood. Decisions on use by special review requests shall be made by the planning commission. The planning commission may require conditions of approval necessary to eliminate, or mitigate to an acceptable level, any potentially adverse effects of the proposed use by special review. (See the illustration below for a description of the use by special review process.)

[GRAPHIC - Special review process]

(Code 1994, § 18.20.060; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-480. Use by special review criteria.

(a) Uses by special review are independent uses or accessory to principal uses which can be conducted in a manner that is not detrimental to the public health, safety or welfare, or detrimental to the character of the surrounding area, but can be of such a nature as to require public review. The following criteria shall be used to evaluate use by special review requests, along with the criteria and requirements in subsections (b) and (c) of this section and design review standards in chapter 12 of this title:

(1) The proposed use shall be consistent with the land use chapter of the comprehensive plan;

(2) The location, size, design and operating characteristics of the proposed use shall be compatible with the existing and future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity. Reasonable conditions may be placed on uses by special review to protect the public health, safety and welfare by mitigating impacts to achieve compatibility and complementary design, especially where a nonresidential use is located adjacent to a residential use;

(3) The site shall be physically suitable for the type and intensity of the proposed land use;

(4) The proposed land use shall not adversely affect traffic flow or parking in the neighborhood; and

(5) The location of other approved uses by special review in the neighborhood shall be determined so that a concentration and/or cumulative effect of such uses can be evaluated.

(b) Use by special review applications shall also be reviewed to ensure that all of the applicable development standards of article VI of chapter 8 of this title have been met, as well as any applicable overlay district provisions.

(c) In addition to those criteria and requirements listed in subsections (a) and (b) of this section, special review applications shall meet all applicable general performance standards found in chapter 9 of this title, parking standards in chapter 10 of this title, landscaping and buffering standards in chapter 11 of this title, all applicable design review performance standards in chapter 12 of this title and if applicable, overlay districts in article III of chapter 8 of this title, areas of ecological significance in chapter 13 of this title, hillside standards in chapter 14 of this title and accessory and temporary uses, structures and buildings in chapter 15 of this title.

(d) Applications for use by special review for oil and gas operations shall also be subject to the provisions of chapter 18 of this title.

(Code 1994, § 18.20.070; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-481. Use by special review process.

(a) Prior to submittal of a use by special review request, a pre-application conference with community development department staff is recommended. The purpose of this conference is to ensure that the proposed use is allowed in the zoning district as a use by special review and to review all applicable requirements of the district, the use by special review criteria and performance standards.

(b) To apply, the applicant shall submit the site plan, landscape plan, architectural elevations and all applicable information in chapter 5 of this title, showing sufficient detail to evaluate all applicable items listed in section 24-480.

(c) Upon determination by community development department staff that the application is complete, the staff shall furnish the following agencies and offices with a copy of all application materials for review and comment:

(1) Building inspection division.

(2) Public works department.

(3) Fire authority (or other applicable fire district).

(4) Water and sewer department.

(d) If the community development department staff determines that other agencies and offices may be affected by or interested in the proposed use by special review, the staff may furnish the following agencies and offices with a copy of all application materials for review and comment:

(1) Police department.

(2) City attorney's office.

(3) Public school districts.

(4) State department of transportation.

(5) County planning department.

(6) U.S. post office.

(7) Natural gas companies.

(8) Electric power companies.

(9) Telephone and communication companies.

(10) Ditch and irrigation companies.

(11) Railroad companies.

(12) Cable television companies.

(13) U.S. Army Corps of Engineers.

(14) Greeley-Weld County Airport.

(15) Northern Colorado Water Conservancy District.

(16) Adjacent municipalities.

(17) Other interested agencies and offices.

(e) All such reviewing agencies and offices will be requested to review the application within two weeks from the date of distribution of the use by special review application to make any objections or comments to community development department staff. This time period may be extended due to caseload and complexity of applications.

(f) After receipt and evaluation of a complete application, the community development director shall schedule a public hearing on the matter before the planning commission on the next open agenda. Notice of the public hearing and a courtesy neighborhood notice shall be sent to affected property owners as provided for in article II of chapter 5 of this title.

(g) The community development department staff shall prepare a report which shall include a summary of all comments received on the use by special review application, along with the staff recommendation, which shall be presented to the planning commission. In taking action on a use by special review application, the planning commission shall consider the staff report and recommendation as well as all comments received from the applicant and the public. The commission shall also consider if the proposed use by special review meets the following standards in taking action to approve, approve with conditions, deny or table the application for future consideration:

(1) All development standards of the zoning district in which the subject property is located have been met.

(2) All applicable general performance standards in chapter 9 of this title, off-street parking and loading standards in chapter 10 of this title, landscaping and buffering standards in chapter 11 of this title and design review performance standards in chapter 12 of this title and other applicable standards have been met.

(3) All use by special review criteria in section 24-480(a) have been met.

(h) The decision of the planning commission on a use by special review request shall be considered final unless appealed by a party-in-interest to the city council. Appeals must be filed, in writing, with the community development department within ten working days of the decision of the planning commission. Appeals shall meet all provisions of chapter 7 of this title. No approval to commence work shall be given until the appeal period has expired unless a waiver has been signed by the applicant and all parties-in-interest.

(Code 1994, § 18.20.080; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 24-482. Modification of a use by special review request.

The community development director may approve plans for an alteration of an approved use by special review when the alteration complies with all of the following conditions:

(1) The building, site or use alteration shall be incidental to the existing use;

(2) The building, site or use alteration shall not result in a change of use which requires use by special review approval;

(3) The building alteration shall involve less than a ten-percent increase in floor area over the original approval, meet the intent of the original approval and meet all applicable zoning district, overlay district, performance standards and other applicable requirements;

(4) The building, site or use alteration, in the opinion of the community development director, is minor in nature and shall not have an adverse effect on adjacent property;

(5) The building, site or use alteration does not alter any conditions of approval; and

(6) The building, site or use alteration shall comply with existing requirements of agencies having jurisdiction and any other appropriate agency as determined by the community development director.

(Code 1994, § 18.20.090; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-483. Revocation of permit.

(a) Use by special review approval may be revoked by the planning commission upon a finding of any one or more of the following grounds:

(1) That the use by special review was obtained by misrepresentation or fraud; or

(2) That one or more of the conditions upon which such approval was granted is not currently met.

(b) The planning commission shall hold a public hearing to consider revocation of the use by special review permit. Notice of the hearing shall be given in accordance with article II of chapter 5 of this title. The applicant or property owner to whom the use by special review has been issued shall be notified of the hearing and shall have an opportunity to present information regarding the use by special review at the hearing. The commission may take action to revoke the use by special review approval after conducting the public hearing. The applicant shall be notified in writing of the commission's decision. Such decision shall be considered final, unless appealed under the provisions of chapter 7 of this title.

(Code 1994, § 18.20.100; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-484. Use of property before final decision.

No building permit or certificate of occupancy shall be issued for any land use involved in an application for approval for use by special review until, and unless, the same shall have become final, pursuant to the provisions of article III of chapter 5 of this title and the appeal period as provided in chapter 7 of this title has expired.

(Code 1994, § 18.20.110; Ord. No. 27, 1998, § 1; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-485. Approval document.

After approval of a use by special review application, the community development director shall cause a copy of the approval document, which shall include the site plan, landscape plan and other such documents as approved to be signed and recorded in the office of the county clerk and recorder. The applicant or property owner shall be responsible for paying all applicable recording fees.

(Code 1994, § 18.20.115; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-486. Time limit to commence operation.

(a) The applicant shall have 12 months to obtain a building permit, upon which the approved use shall then be permitted to continue as long as all conditions of approval are met. For uses which do not require a building permit, commencing operation of the use as approved within 12 months shall allow continuation of the use.

(b) Upon written application and for good cause, the community development director may extend the use by special review approval period for two consecutive six-month periods. Any additional six-month extension may be approved, for good cause, by the planning commission. A request for extension of a use by special review approval shall be submitted by the applicant prior to the date of expiration. Failure to submit a written request within the specified time period shall cause forfeiture of the right to extend use by special review approval.

(c) Failure to obtain a building permit for or commence the use as provided in subsection (a) of this section within 12 months after approval, or to obtain an extension as provided for in subsection (b) of this section, shall result in the forfeiture of such approval and be subject to all requirements of this chapter as a reapplication.

(d) Not less than three years from the effective date of the ordinance codified in this Development Code, the planning commission may conduct annual hearings on those uses by special review approved under the previous code which have never been undertaken, to determine whether such uses have been abandoned by their applicants or whether to permit continuation of the original use by special review approval. Public notice shall be provided to the owners of such uses by special review prior to the planning commission hearing as provided in accordance with section 24-452. In addition to public notice standards as provided in section 24-452, the property owners of such uses by special review shall be mailed a registered notice prior to the planning commission hearing.

(Code 1994, § 18.20.120; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-487. Abandonment of use by special review.

If active and continuous operations as authorized as a use by special review are not carried on in a building or site which has received such approval during a continuous period of 36 consecutive months, the use by special review shall be considered abandoned and shall cease thereafter unless a new application for a use by special review is approved under the provisions of this chapter or an extension has been approved under the provisions of section 24-486(b). The burden of proof to determine continuous use shall be on the property owner.

(Code 1994, § 18.20.130; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Secs. 24-488--24-512. Reserved.

CHAPTER ~~18.22.~~ 5. VARIANCES

Sec. 24-513. Purpose and intent.

The purpose of this chapter is to detail the responsibilities and authority of the planning commission acting as the zoning board of appeals and provide standards for variances to this Development Code.

(Code 1994, § 18.22.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-514. General provisions.

In accordance with section 19-5 of the city Charter, the zoning board of appeals is established to have the power and duties prescribed herein.

(Code 1994, § 18.22.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-515. Jurisdiction.

(a) The zoning board of appeals shall have jurisdiction over the following types of cases:

(1) *Building permit refusals*. Appeals from refusals by the administrative official to issue building permits, when such refusal is based on a finding that this Development Code would be violated by development pursuant to the building permit.

(2) *Enforcement actions*. Appeals from action, by way of orders or otherwise, by the enforcement official under this Development Code. The board shall have no authority to review appeals with respect to a dispute which is the subject of a pending proceeding in any court.

(3) *Variances*. Requests for the granting of variances as provided for in section 24-516.

(4) *Directed duties*. Any other type of case which the zoning board of appeals is directed to consider by other provisions of this Development Code.

(b) In cases over which the zoning board of appeals has jurisdiction under subsections 24-516(a) and (b), the board shall have the authority to reduce or alter, to a specified extent, any of the requirements and limitations contained in subsections 24-516(a) and (b). The order of the board providing for any such modifications shall be known as a variance.

(c) In exercising its authority, the zoning board of appeals shall in no case authorize a land use or activity which is not otherwise permitted under this Development Code, considering the zoning district in which the land is located.

(d) Interpretations of the intent of this Development Code shall be the authority of the planning commission and shall not be subject to modification by the zoning board of appeals.

(Code 1994, § 18.22.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-516. Variances.

(a) When practical difficulties, unnecessary hardship or results inconsistent with the general purpose of this Development Code occur through the strict and literal interpretation and enforcement of the provisions thereof, the zoning board of appeals shall have the authority, subject to the provisions of this chapter, to grant such conditions as it may determine to be necessary to be in conformance with the intent of the land use chapter of the comprehensive plan. In general, the power to authorize a variance from the terms of this Development Code shall be exercised only

under peculiar and exceptional circumstances. The board may grant a variance as applied for, or a variance constituting a reduction thereof. The board may attach conditions in granting a variance, which conditions shall be reasonably related to promoting compatibility with the surrounding area and land uses.

(b) The zoning board of appeals may grant a variance from the requirements of this Development Code governing the following matters, except as provided in subsection (c) of this section and 24-517.

(1) Except as may relate to oil and gas operations, modification of the following dimensional standards for individual properties:

a. Distance between structures;

b. Lot area;

c. Lot coverage;

d. Setbacks;

e. Building or structure height;

f. Size of accessory buildings.

(2) Signage variances as permitted in chapter 17 of this title.

(3) Floodplain variances, upon appeal.

(c) If any variance request is related to an application for which approval by the planning commission or city council shall be required, including, but not limited to, uses by special review and planned unit developments, then such variance shall become a part of said application and shall be approved, if at all, only by the planning commission, unless appealed to the city council as provided in chapter 7 of this title.

(d) All applications for variances, except as provided in subsection (c) of this section, shall be filed on forms prescribed by the zoning board of appeals and the administrative official. All such applications shall be submitted, completed in full and accompanied by the appropriate fees no later than 25 days prior to the scheduled board meeting. In the event that an incomplete application is submitted, it shall be returned to the applicant for refiling. It shall be the applicant's responsibility to obtain and submit accurate information. The following information shall be required as part of a complete application:

(1) Application form supplied by the community development department and completed by the applicant, which specifies the variance being requested, the specific sections on which the variance is being requested, the details of the variance and the grounds on which it is claimed that the variance should be granted.

(2) A plan, drawn to scale, showing the entire property under consideration, the location and names of all abutting streets, the location and dimensions of all existing and proposed structures, as well as the acreage and dimensions of the property under consideration.

(3) If applicable, the location and dimensions of all known oil and gas production facilities on site and within 500 feet of the site, or as determined by applicable state standards, including wellheads, flow lines, transmission lines, gathering lines and tank batteries, as well as access roads to the site.

(4) Other information as may be needed for a full and complete consideration of the application. The burden of proof to evidence a hardship shall rest upon the applicant.

(5) A list of the names and addresses of property owners that may be impacted by the proposed variance as provided in article II of chapter 5 of this title.

(e) After receipt of a complete application, the community development director shall schedule a public hearing on the matter before the zoning board of appeals on the next open agenda. Notice of such public hearing shall be given as provided for in article II of chapter 5 of this title.

(f) In taking action on a variance request, the zoning board of appeals shall consider any comments received from the public and the applicant and the staff recommendation. Every piece of land is unique, so evidence that a variance was previously granted under similar circumstances shall not be considered binding grounds for granting a variance. The board shall also consider if the proposed variance meets the following criteria in taking action to

approve, approve with conditions, deny or table the application for future consideration:

(1) Any variance granted shall be the minimum needed to accommodate or alleviate the difficulty or hardship involved.

(2) A variance is necessary to accommodate an unusual or atypical lot configuration which makes a reasonable use of the property unreasonable without a variance.

(3) Any difficulty or hardship constituting the basis for a variance shall not be created by the party seeking the variance, nor shall it be due to or a result of the general conditions in the area.

(4) Granting the variance is necessary so that the building or structure can align with the prevailing location of other similar buildings or structures on the same block face.

(5) Granting the variance is consistent with the land use chapter of the comprehensive plan and area or neighborhood plans, or may achieve a better result in meeting the intent of the plan objectives than if the codes were strictly applied.

(g) In every instance where the board grants a variance, there shall be a finding that:

(1) The granting of such variance will not be of substantial detriment to the public interest or to adjacent property or improvements in such district in which the variance is sought, and will observe the spirit of this Development Code; and

(2) The strict application of the provisions of this Development Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of this Development Code; or

(3) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district.

(h) The decision of the zoning board of appeals on a variance request shall be considered final unless appealed by a party-in-interest to the city council. The findings and determinations of the zoning board of appeals may be reviewed, modified, affirmed or reversed by the city council. Appeals must be filed in writing with the community development department within ten working days of the decision by the zoning board of appeals and shall meet all provisions of chapter 7 of this title.

(i) Upon approval of a variance, a certificate of variance approval shall be recorded for the subject property by the community development director in the county clerk and recorder's office.

(j) A variance shall be exercised within 12 months from the date of approval, or the variance shall become null and void. The zoning board of appeals may, upon an application being filed 30 days prior to expiration and for good cause, grant a time extension not to exceed six months. Upon granting an extension, the board shall ensure that the variance complies with all other applicable Code provisions. Refer to section 24-1328 for specific sign variance provisions.

(k) No permit shall be issued for any use involved in an application for approval of a variance until, and unless, the variance has been approved and a certificate of variance approval has been issued.

(Code 1994, § 18.22.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 34, 2010, § 2, 10-19-2010)

Sec. 24-517. Minor variances.

(a) The community development director may grant minor variances from the requirements of this Development Code, provided that the amount of variation to the required standard shall be limited as noted for the following items:

(1) Distance between structures: one foot, or ten-percent reduction in any one direction, whichever is less.

(2) Lot area: maximum of five-percent reduction in total minimum lot area required. For example, a minimum required lot area of 6,000 square feet may be reduced by a maximum of five percent, making the lot area 5,700 square feet.

(3) Lot coverage: maximum of ten-percent increase in total maximum area of coverage. For example, if a

lot has a maximum coverage limit of 80 percent, the increase by ten percent in coverage would result in a maximum permitted coverage of 88 percent for the lot.

(4) Setbacks: one foot, or ten-percent reduction in distance for any one required setback, whichever is less.

(5) Building height: one foot, or ten-percent increase in height, whichever is less.

(6) Floodplain variances, if mitigation measures are met.

(7) Variances to correct or clear title to real estate, where the condition which would necessitate a variance has existed prior to the adoption of the ordinance from which this Development Code is derived and which condition was legally established.

(b) Variance applications shall include all required information as provided in section 24-516(d), except that there shall not be a deadline for the submittal of variances to the community development director.

(c) The community development director shall use the criteria provided in sections 24-516(f) and (g) in taking action on a variance request. If the variance request is for floodplains, flood fringe areas or mineral lands, the criteria and considerations in sections 24-518(b) and (c) shall also be considered.

(d) Notice of the variance request shall be provided to neighboring property owners as provided in article II of chapter 5 of this title, and if there are objections about the proposal made by any notified property owner, the variance request shall be forwarded to the zoning board of appeals for a decision.

(e) The decision of the community development director on a minor variance request shall be considered final unless appealed by a party-in-interest to the zoning board of appeals or the city council. The findings and determinations of the director may be reviewed, modified, affirmed or reversed by the board. Appeals must be filed, in writing, with the community development department within ten working days of the decision by the community development director and shall meet all provisions of chapter 7 of this title.

(f) Upon approval of a variance, a certificate of variance approval shall be recorded for the subject property by the community development director in the county clerk and recorder's office.

(g) A minor variance shall be exercised within 12 months from the date of approval, or the variance shall become null and void. The community development director may, upon an application being filed prior to expiration and for good cause, grant a time extension not to exceed six months. Upon granting an extension, the director shall ensure that the variance complies with all other applicable Code provisions.

(h) No permit shall be issued for any use involved in an application for approval of a variance until and unless the variance has been approved and a certificate of variance approval has been issued.

(Code 1994, § 18.22.050; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-518. Variances to floodways, flood fringe areas and mineral lands.

(a) All applications for variances to the provisions of article VI of chapter 8 of this title for the conservation district for floodways, flood fringe areas and mineral lands shall be filed and processed as a minor variance as provided for in section 24-517.

(b) In taking action on a variance request for floodways, fringe areas and mineral lands, the community development director shall consider all of the following criteria, in addition to the criteria provided for in section 24-516(f):

(1) The danger that materials may be swept into other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion

damage;

(7) The compatibility of the proposed use with the existing and anticipated development;

(8) The relationship of the proposed use to the land use chapter of the comprehensive plan and floodplain management program for the area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(c) The following special considerations shall be made for any variance for development located in floodways, flood fringe areas and mineral lands:

(1) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that subsection (b) of this section has been fully considered. As the lot size increases beyond one-half acre, the technical justifications required for issuing the variance should proportionately increase.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this subsection.

(3) Variances may not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) A determination shall be made that granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(d) If granted, written notice shall be given to the applicant identifying the approved elevation of the lowest floor and the base flood elevation adjacent to the structure.

(Code 1994, § 18.22.060; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 65, 2002, § 1, 12-17-2002)

Secs. 24-519--24-544. Reserved.

CHAPTER 6. APPEALS

Sec. 24-545. Purpose and intent.

An appeal shall provide for review of a final decision made by the community development director, planning commission or zoning board of appeals on land use and development applications and Code interpretations.

(Code 1994, § 18.24.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 49, 2000, § 1, 10-3-2000; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-546. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appeal means a review of a final decision by a higher authority.

Party-in-interest means the applicant, developer or subdivider of a development application; or other interested citizen of the city who provided verbal or written comments at the hearing on the development application and may appeal decisions as provided for herein.

(Code 1994, § 18.24.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 65, 2002, § 1, 12-

17-2002; Ord. No. 4, 2006, § 1, 1-17-2006)

Sec. 24-547. Application.

(a) A final decision by the community development director regarding Code interpretations, permitted uses or design review of permitted uses may be appealed by the applicant to the planning commission. The decision of the planning commission on appeal shall be final, unless the applicant or developer elects to appeal the planning commission decision to the city council, in which case the decision of the city council shall be final.

(b) A final decision by the planning commission regarding uses by special review, final PUD plans or adequate public facilities determinations may be appealed by a party-in-interest to the city council. The decision of the city council shall be final.

(c) A final decision by the zoning board of appeals regarding variances may be appealed by a party-in-interest to the city council. The decision of the city council shall be final.

(Code 1994, § 18.24.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 27, 2011, § 2, 9-6-2011)

Sec. 24-548. Process.

(a) The appellant shall submit a written appeal to the community development department within ten working days of the date of the final decision by either the community development director, planning commission or zoning board of appeals. The appeal shall be in writing and shall include the basis for appeal, decision of either the community development director, planning commission or zoning board of appeals, the related sections of this chapter and applicable fee.

(b) The community development department shall place the appeal on the planning commission or city council agenda for consideration on the next open agenda and shall give public notice as provided for in article II of chapter 5 of this title.

(c) The applicable decision-making body shall consider all information previously submitted for decision, including both evidence and testimony in considering the appeal. In addition, a public hearing shall be held to accept any public input regarding the appeal. Upon conclusion of the appeal hearing, the applicable decision-making body may uphold, overturn or modify the decision of the community development director, planning commission or zoning board of appeals based on criteria provided in this Development Code. The decision on appeal shall be provided in minutes of the meeting.

(Code 1994, § 18.24.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-549. Stipulations.

(a) On written request of the appellant and/or the city and after agreement of the appellant and the city, the time limit set forth for submitting an appeal, as provided in section 25-548(a), may be extended.

(b) Failure on any part of the decision-maker to reply within the stated or agreed time limit will be considered denial of the appeal.

(c) If the appellant does not file and/or submit the notice of appeal within the stated or agreed time limits, including all those items required in section 25-548(a), the matter shall not be allowed.

(d) Except as otherwise stipulated, all relevant information on the record, including that presented in the public hearing, shall be considered. The decision-making body responsible for the appeal has the sole authority to determine the procedures of the informal hearing.

(Code 1994, § 18.24.050; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 65, 2002, § 1, 12-17-2002)

Secs. 24-550--24-576. Reserved.

CHAPTER ~~18.26.~~ 7. ANNEXATION

Sec. 24-577. Purpose and intent.

The purpose of this chapter is to detail the required procedures for including lands within the municipal boundaries so that consideration may be given for expanding the city's boundaries to:

(1) Encourage well-ordered development of the city; and

(2) Extend municipal government, services and facilities to eligible areas which form a part of the whole city.

(Code 1994, § 18.26.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-578. General provisions.

(a) Annexation of lands to the city shall be in accordance with the laws of the state in effect at the time of annexation and which may be amended from time to time and shall include a request for zoning as provided in section 24-583.

(b) The city council may consider annexation of any land that satisfies the eligibility requirements of the statutes of the state as follows:

(1) The area proposed for annexation has not less than one-sixth of its perimeter contiguous with the municipal boundaries; and

(2) A community of interest exists between the area proposed for annexation and the city; the area is urban or will be urbanized in the near future; and said area is integrated with or is capable of being integrated with the annexing municipality.

(c) If the city council determines to proceed with annexation of property, the council shall make such determination by resolution which shall include the public hearing date and, at the same time, shall determine if an annexation agreement will be required.

(d) Except as otherwise provided, the full width of all public rights-of-way adjacent to a proposed annexation shall be included in the annexation.

(e) The responsibility to apply for exclusion from any applicable special districts shall be upon the applicant of the annexation.

(Code 1994, § 18.26.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-579. Required information.

The following information shall be required for an annexation request:

(1) Petition for annexation. The petition shall be signed by persons comprising more than 50 percent of the landowners in the area and owning more than 50 percent of the land area. Sample petitions are available from the community development department.

(2) Application form and related application fees.

(3) Statement of conformance with the city's comprehensive plan.

(4) Annexation plat (24 inches by 36 inches size and 8 1/2 inches by 11 inches reduction) showing the boundary of the area proposed to be annexed and including the following:

a. Location of ownership tracts and platted lots;

b. Written legal description of the boundaries of the area;

c. The contiguous boundary of the city limits next to the boundary of the area proposed for annexation and boundary map showing special districts;

d. Vicinity map showing proposed annexation and surrounding area;

e. All existing structures and uses shown on the area proposed for annexation;

f. Title of the annexation; and

g. Surveyor's certificate, city acceptance blocks and notary blocks as provided in section 24-196(a)(12).

(5) Petition to exclude the property from the fire district.

(6) Statement of intent to include the property in the Northern Colorado Water Conservancy District and Subdistrict.

(7) Copies of all agreements between the applicant and governmental entities, quasi-public entities and special districts that may affect the applicant's property, addressing such things as access, irrigation, fire protection and sanitation.

(8) Private agreements addressing topics subject to governmental approval, such as signage, oil and gas operations and building permits.

(9) Information on ecological or land use conditions which may be hazardous.

(10) Mailing list of affected properties as provided in article II of chapter 5 of this title, in a form acceptable to the community development department.

(11) Site analysis map documenting existing conditions, including, but not limited to, structures, improvements, land features, vegetation, water elements, topography and number of dwelling units as described at section 24-425(1).

(Code 1994, § 18.26.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-580. Technical review procedures.

(a) Upon receiving a complete annexation submittal meeting the provisions of section 24-579, the community development director shall furnish the following agencies and offices with a copy of such annexation plat and supporting documents for review and comment:

(1) Building inspection department.

(2) Public works department (two copies).

(3) Fire authority (or other applicable fire district).

(4) Water and sewer department.

(b) If the community development director determines that other agencies and offices may be affected by or interested in the proposed annexation, the director may furnish the following agencies and offices with a copy of such annexation plat and related supporting documents for review and comment:

(1) Police department.

(2) City attorney's office.

(3) Public school districts.

(4) State department of transportation.

(5) County planning department.

(6) U.S. post office.

(7) Natural gas companies.

(8) Electric power companies.

(9) Telephone and communications companies.

(10) Ditch and irrigation companies.

(11) Railroad companies.

(12) Cable television companies.

(13) U.S. Army Corps of Engineers.

(14) Greeley-Weld County Airport.

(15) Northern Colorado Water Conservancy District.

(16) Other interested agencies and offices.

(c) All such reviewing agencies and offices will have two weeks from the date of distribution of the annexation plat and supporting documents to make any objections or comments to the community development director. This time period may be extended to the minimum period needed to complete the review.

(d) The community development director shall conduct an analysis of existing land uses on the subject property to ascertain zoning and lawfully established nonconforming uses. Such nonconforming uses shall be permitted to continue, as provided in chapter 19 of this title, except animal confinement uses, which shall be amortized as provided in section 24-1431.

(Code 1994, § 18.26.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 05, 2010, § 1, 3-23-2010)

Sec. 24-581. Public review.

(a) The planning commission shall hold a public hearing on the annexation and shall provide notice of said hearing as provided for in article II of chapter 5 of this title. The community development director shall include a summary of all comments received on the annexation plat along with the staff recommendation in a report which shall be presented to the planning commission for consideration of the annexation. In making a recommendation on an annexation, the planning commission shall consider any comments received from agencies or offices receiving copies of the annexation plat, the staff recommendation and any comments received from citizens. The commission shall also consider if the proposed annexation meets the following criteria in taking action to recommend approval or denial, or to table the annexation for future consideration:

(1) The proposed annexation is in conformance with the city's comprehensive plan;

(2) The proposed annexation promotes geographical balance of the city's land use pattern;

(3) Adequate services are or will be available to support the development expected to result from the proposed annexation (see section 24-1055);

(4) The proposed annexation provides for a continual and rational boundary; and

(5) The proposed annexation is needed to accommodate future land use requirements.

(b) The city council shall hold a public hearing on the annexation and shall provide notice of said hearing as provided for in article II of chapter 5 of this title. In taking action on an annexation, the city council shall consider any comments received from agencies or offices receiving copies of the annexation plat, the staff and planning commission recommendations and any comments received from citizens. The council shall also consider if the proposed annexation meets the criteria in section 24-578 in taking action to approve, deny or table the annexation for future consideration.

(c) If the annexation is approved, the community development director shall cause a copy of the signed annexation plat to be recorded in the county clerk and recorder's office.

(d) Annexations of enclaves may be initiated by the city council when such enclaves have been completely surrounded by property within the municipal limits for a period of at least three years.

(Code 1994, § 18.26.050; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-582. Annexation impact report.

(a) For annexations of areas larger than ten acres, the city shall prepare an impact report concerning the proposed annexation. Such report shall be prepared at least 25 days prior to the date of the city council's hearing on the proposed annexation, and one copy of the report shall be filed with the board of county commissioners governing the area proposed to be annexed within five days after preparation of the report.

(b) The annexation impact report shall contain the following information at a minimum:

(1) A map or maps of the municipality and adjacent territory to show the following:

a. The present and proposed boundaries of the municipality in the vicinity of the proposed annexation;

b. The present streets, major trunk water mains, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation; and

c. The existing and proposed land uses in the areas to be annexed.

(2) A copy of any draft or final annexation agreement, if available;

(3) A statement setting forth the plans of the municipality for extending to, or otherwise providing for, municipal services performed by or on behalf of the municipality at the time of annexation;

(4) A statement setting forth the method under which the municipality plans to finance the extension of the municipal services into the area to be annexed;

(5) A statement identifying existing districts within the area to be annexed; and

(6) A statement on the effect of annexation upon local public school district systems, including the estimated number of students generated and the capital construction required to educate such students.

(Code 1994, § 18.26.060; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-583. Zoning newly annexed areas.

(a) Annexed areas shall be included in the city's zoning ordinance and map within 90 days after the effective date of the annexation ordinance, except that the proposed zoning ordinance shall not be passed on final reading prior to the adoption of the annexation ordinance.

(b) The city shall consider zoning such newly annexed areas under the appropriate zoning category as follows:

(1) If land use approval and/or development of areas being considered for annexation is not pending upon completion of annexation, if the subject property is in a transitional state regarding development or if it is in the best interest of the city, the city council shall place the newly annexed property into the H-A Holding Agriculture Zoning District.

(2) Requests for zoning districts other than the H-A Holding Agriculture District may be considered by the city council in conjunction with the submittal of all applicable requirements for a zoning suitability plan or a rezoning application. The city council shall place the newly annexed property into the zoning district most appropriate, considering the goals and objectives of the city's comprehensive plan and the applicant's future development plans.

(3) Requests for zoning to the C-D Conservation District shall be exempt from the requirements of subsections (b)(1) and (2) of this section.

(4) Property which does not have an approved zoning suitability plan and does not develop within three years from the effective date of this section shall be required to submit a zoning suitability plan under the provisions of section 24-425 prior to, or in conjunction with, subdivision or site development.

(c) A pre-application conference shall be required with the community development department staff to discuss zoning of newly annexed areas. The staff may recommend that the applicant conduct the pre-application conference with the administrative review team (ART) in order to obtain comments from representatives of other city agencies and offices. In this case, the community development department staff shall inform the applicant of any application and scheduling procedures of the administrative review team.

(d) Upon approval of a zoning suitability plan by city council, said plan shall remain effective until and unless a revised or amended zoning suitability plan is submitted to and approved by the city council.

(e) Approved zoning suitability plans shall be required to be amended using the same procedures under which the original plan was approved; if there is a subsequent change of zoning proposed, the requirement for such

a plan shall be waived by the community development director if the zoning district adjustment is deemed insignificant.

(f) During the time in which zoning of newly annexed areas takes place, the city may refuse to issue any building or occupancy permit for any portion or all of the newly annexed area.

(Code 1994, § 18.26.070; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-584. Annexation elections.

(a) The qualified electors of the area being proposed for annexation may petition the city council to hold an annexation election. The petition for annexation election shall be signed by at least 75 qualified electors or ten percent of the electors, whichever is less, or as otherwise required by state statutes.

(b) The petition shall be filed with the city clerk and shall comply with the provisions of the state statutes.

(c) If the petition for annexation election is in substantial compliance with state statutes, the city council shall call for an election to be held. Notice of such election shall be given by the city clerk.

(d) If a majority of the votes cast are against annexation, or the vote is tied, the annexation proceedings to date will be voided and considered of no effect and the city council shall proceed no further with the annexation proceedings.

(e) If a majority of the votes cast at the election are for annexation, the city council may thereafter annex the area.

(Code 1994, § 18.26.080; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Secs. 24-585--24-620. Reserved.

~~**CHAPTER 18.28. 9. (RESERVED)**~~

CHAPTER 8. ZONING AND LAND USE

ARTICLE I. GENERALLY

Sec. 24-621. Purpose and intent.

The purpose of this chapter is to establish zoning districts to classify the use of land within the city.

(Code 1994, § 18.30.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-622. Zoning districts established.

In order to carry out the purposes of this Development Code, the following zoning districts are established so that the entire territory of the city can be classified for the purposes of land use according to the predominant character of development and current or intended use in an area:

(1) R-L Residential Low Density District.

(2) R-E Residential Estate District.

(3) R-MH Residential Mobile Home Community District.

(4) R-M Residential Medium Density District.

(5) R-H Residential High Density District.

(6) C-L Commercial Low Intensity District.

(7) C-H Commercial High Intensity District.

(8) I-L Industrial Low Intensity District.

(9) I-M Industrial Medium Intensity District.

(10) I-H Industrial High Intensity District.

(11) H-A Holding Agriculture District.

(12) C-D Conservation District.

(13) P-U-D Planned Unit Development District.

(Code 1994, § 18.30.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-623. Conversion of districts.

~~At any time within 60 days following the adoption of this Code,~~ The city council shall, by the adoption of a single ordinance, place all land in the city into zoning districts under this chapter, making this Code effective upon adoption of the zoning map, according to the following conversion table:

Zoning Conversion Table	
Zoning Code of 1976	Zoning Code of 1998
R-1 Single Family Residential	R-L Residential Low Density
R-1E Single Family Estate Residential	R-E Residential Estate Density
R-M Mobile Home Community	R-MH Residential Mobile Home Community District
R-2 Two Family Residential	R-M Residential Medium Density
R-3 Multifamily Residential	R-H Residential High Density
C-1, C-2 Office, Local Business	C-L Commercial Low Intensity
C-3, C-4 General Business, Service Business	C-H Commercial High Intensity
I-1 Light Industrial	I-L Industrial Low Intensity
I-2 Medium Industrial	I-M Industrial Medium Intensity
I-3 Heavy Industrial	I-H Industrial High Intensity
None existing in 1976 code--new zone	H-A Holding Agriculture (newly annexed areas, areas in agriculture)
C-D Conservation	C-D Conservation
PUD Planned Unit Development	P-U-D Planned Unit Development

(Code 1994, § 18.30.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-624. Zoning map established.

(a) The assignment of land in the city to the zoning districts established by this chapter shall be accomplished by ordinance and shall be shown on the map designated as the "City of Greeley Official Zoning Map" on file with the public works director, or director's designee, and available at the public works department. All changes made on the zoning map by reason of zoning amendments or otherwise shall be made by or under the direction of the public works director. Whenever reference is made in this Development Code to the zoning map, that reference shall be to the most recent version of the zoning map in the custody of the public works director.

(b) The public works director, or director's designee, shall make changes on the zoning map or prepare replacement zoning maps as required as soon as practical following any city council action regarding zoning.

(c) The ~~first~~ zoning map prepared under this chapter shall be prepared after territory within the city has been rezoned according to the zoning district conversions set forth in section 24-623. ~~The public works director, or director's designee, shall prepare an exact copy of~~ The first zoning map for the signature of the city clerk, ~~which copy~~ shall contain the following notation and be dated:

"This is to certify that this is a copy of the zoning map of the City of Greeley, Colorado. The official version of this map is in the custody of the public works director, or director's designee, and that version may contain

changes not reflected on this copy."

(d) ~~In the month of January, beginning in 1999,~~ The public works director, or director's designee, shall prepare an official copy of the most recent zoning map containing the same notation quoted in subsection (c) of this section and shall deliver that copy to the city clerk, who shall then file the previous year's map in a permanent file containing retired zoning maps beginning in 1999.

(e) The official version of the zoning map most recently prepared by the public works director, or director's designee, and in his custody shall control over all copies of that or any previous zoning map; and no person shall be entitled to rely on any but the official version in the custody of the public works director, or the director's designee. However, if through error, the official version of the zoning map does not accurately and correctly reflect action taken by the city council in the form of zoning ordinances or otherwise, then such action by the council shall control. Any such error shall be brought to the attention of the city council immediately and the council shall thereupon instruct the correction of the error by the adoption of an appropriate resolution or ordinance.

(f) If uncertainty exists as to the boundaries of any zoning district shown on the zoning map, the following rules shall apply:

(1) If a street or alley is officially vacated, the property formerly in such street or alley shall be included within the zoning district in which the property adjoining on either side thereof is included; however, in the event a vacated street or alley had separated two or more different zoning districts, the new zoning district boundary separating those districts shall coincide with the line dividing the ownership of the street or alley.

(2) The zoning district boundary lines are intended to follow lot lines, be parallel or perpendicular thereto, or follow along the centerlines of alleys, streets, rights-of-way or watercourses, unless such boundary lines are fixed by dimensions shown on the zoning map or unless the zoning district boundary line is shown as clearly dividing a lot. If a zoning district boundary line divides a lot, the location of such boundary line, unless indicated by dimensions written on the zoning map, shall be determined by the use of the map scale shown thereon.

(3) If, after application of the rules set out in subsections (1) and (2) of this section, uncertainty still exists as to the exact location of a zoning district boundary line, the line shall be determined by the administrative official in a reasonable manner, considering the history of the city's zoning ordinances and amendments and other factors he deems relevant. The decision of the administrative official shall be subject to review by the planning commission.

(Code 1994, § 18.30.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-625. Establishment of zoning and rezoning procedures.

(a) For the purpose of establishing and maintaining sound, stable and desirable development within the city, the rezoning of land is to be discouraged and allowed only under circumstances provided for in this section. This policy is based on the opinion of the city council that the city's zoning map is the result of a detailed and comprehensive appraisal of the city's present and future needs regarding land use allocation and other zoning considerations and, as such, should not be amended unless to correct manifest errors or because of changed or changing conditions in a particular area of the city in general. The city council may, from time to time, amend by ordinance the number, shape or area of districts on the zoning map, as well as any part of the written regulations set forth within the text of this Development Code.

(b) Rezonings may be initiated by the planning commission, city council or all property owners of the subject property.

(c) The procedure for rezoning shall be as follows:

(1) A pre-application conference is required with community development department staff to discuss rezoning of property. The staff may conduct the pre-application conference with the administrative review team (ART) in order to obtain comments from representatives of other city agencies and offices. In this case, the community development department staff shall inform the applicant of any application and scheduling procedures of the ART.

(2) After the pre-application conference, an application shall be filed with the community development director and all required fees paid. Such application shall include the following:

a. Name and address of all property owners of the land involved;

b. Surveyed legal description for the proposed zoning districts of the land involved, with the exception of a city-initiated comprehensive rezone or a floodway rezone resulting from or required by a basin-wide flood study;

c. A statement of the action requested, addressing the criteria in subsections (c)(3) and (4) of this section;

d. Signatures of all owners of record of all property involved and evidence of ownership or, if the property is subject to a contract for sale and purchase, signature by all contract purchasers, with the exception of a city-initiated comprehensive rezone or a floodway rezone resulting from or required by a basin-wide flood study;

e. A zoning suitability plan submittal containing the information in section 24-425(a);

f. Such additional information as may be required by the community development director in order to ensure a complete and comprehensive review of the proposed zoning amendment;

g. Application form; and

h. List of property owners within an area of influence of the subject property, to be determined as provided in article II of chapter 5 of this title.

(3) The community development director shall use the following review criteria to evaluate the zoning amendment application:

a. Has the area changed, or is it changing to such a degree that it is in the public interest to rezone the subject property to encourage development or redevelopment of the area?

b. Has the existing zoning been in place for at least 15 years without substantial development resulting and does the existing zoning appear to be obsolete, given development trends?

c. Are there clerical or technical errors to correct?

d. Are there detrimental environmental conditions, such as floodplains, presence of irrigation ditches, inadequate drainage, slopes, unstable soils, etc., that may affect future development of this site and which may not have been considered during the original zoning of the property?

e. Is the proposed rezoning necessary in order to provide land for a community-related use which was not anticipated at the time of adoption of the city's comprehensive plan; or have the policies of the city changed to the extent that a rezoning is warranted?

f. What is the potential impact of the proposed rezoning upon the immediate neighborhood and the city as a whole (including potential noise and environmental impacts, visual impacts, the provision of city services such as police, fire, water, sewer, street and pedestrian systems and parks and recreation facilities)?

g. Is there clear and convincing evidence that the proposed rezoning will be consistent with the policies and goals of the city's comprehensive plan and comply with applicable zoning overlay requirements?

h. What is the potential impact of the proposed rezoning upon an approved zoning suitability plan for the property?

(4) If the proposed rezoning is for placing property within the H-A, Holding Agriculture District, the following criteria shall also be considered in the evaluation of the proposed zoning amendment:

a. Existing and proposed uses on the property, including farming uses;

b. Existing and proposed uses in the surrounding area; and

c. Criteria in section 24-583(b).

(5) If the proposed rezoning is for placing property within the C-D, Conservation District, the following criteria shall also be considered in the evaluation of the proposed zoning amendment:

a. The competing values of potential mineral extraction with other forms of development;

b. The merits of allowing a conflicting land use that might prevent or discourage such extraction in the future;

c. The limitation of adjacent development when it would interfere with the extraction and exploration of minerals;

d. Consistent with the standards in section 24-671;

e. The property is determined to be in a floodway by a flood study accepted and approved by the city and the federal government.

(6) Property rezoned as a result of a flood study. Property zoned as C-D, Conservation District, which is determined to no longer be in a floodway (flood study accepted and approved by the city and the federal government), and no longer meets the criteria of subsection (c)(5) of this section, the planning commission or city council shall initiate a rezoning based on the following criteria: consult with the property owner and consider current legal uses, adjacent zoning and legal land uses, the history of the city's zoning ordinances and amendments and other relevant factors.

(7) Upon receipt of a complete application and review by affected agencies, the community development director, or director's designee, shall prepare a written report analyzing the application with the criteria in subsection (c)(3), (4) or (5) of this section, as applicable. A copy of the report shall be furnished to the applicant.

(8) The director shall schedule the application for consideration at a public hearing by the planning commission. Notice to the public of a planning commission meeting at which an application for a rezoning is to be considered shall be as provided in article II of chapter 5 of this title.

(9) The planning commission shall consider the staff report, along with the zoning suitability plan and related submittal items, and testimony and comments made by the applicant and the public. The commission shall make recommendations to the city council regarding the application in the form of a finding based on the review criteria in subsection (c)(3), (4) or (5) of this section, as applicable.

(10) The application shall be considered by the city council at a public hearing with notice given for the hearing as provided for in article II of chapter 5 of this title. For the purposes of convenience, the introduction of the ordinance amending the zoning map may be placed on the council meeting agenda immediately preceding the council meeting for which the public hearing on the rezoning application has been scheduled. Approval of the introduction of the ordinance amending the zoning map does not bind, implicitly or expressly, any council member to vote for or against the rezoning application.

(11) The city council shall consider the review criteria in subsection (c)(3), (4) or (5) of this section, as applicable, as well as the staff report, the zoning suitability plan and related submittal items, planning commission recommendation and comments made by the applicant and the public in making a decision on the rezoning application. If a majority of the city council members present at the public hearing wish the matter to be taken under advisement, the decision shall be made at a subsequent regular council meeting. The city council shall state the reasons for the decision in reasonable detail. If the decision is in favor of the rezoning application, the final reading and public hearing on the ordinance amending the zoning map shall be voted upon as the next council agenda item at that same council meeting if that ordinance has previously been introduced.

(12) After the denial of any rezoning application, no application for the same or substantially similar request shall be made for 12 consecutive months immediately following the denial.

(d) Upon approval of a zoning suitability plan by city council, said plan shall remain effective until and unless a revised or amended zoning suitability plan is submitted to and approved by city council.

(e) Approved zoning suitability plans shall be required to be amended using the same procedures under which the original plan was approved. If there is a subsequent change of zoning proposed, the requirements for such

a plan shall be waived by the community development director if the zone district adjustment is deemed insignificant.

(Code 1994, § 18.30.050; Ord. No. 56, 2003, §§ 1, 2, 8-19-2003; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 4, 2006, § 1, 1-17-2006)

Sec. 24-626. Development concept master plan.

(a) A development concept master plan may be submitted at the time of establishment of zoning, as part of a rezoning request as part of a mid-range expected service area waiver criteria request or in conjunction with a subdivision action in order to provide a more comprehensive level of site and building detail for a particular use of a property. Once submitted and approved by city council, the development concept master plan becomes binding with the land. Though optional, the submittal of a development concept master plan is strongly encouraged and will facilitate the timely review and approval of site building permits.

(b) The following items shall be required for a development concept master plan:

(1) Site analysis map as described in section 24-425(1)a through l.

(2) Zoning suitability plan as described in section 24-425(2)a through f.

(3) The following supplemental reports shall also be supplied as part of the development concept master plan submittal:

a. Preliminary traffic impact study;

b. Preliminary drainage report and plan;

c. Preliminary soils report;

d. Written description of setting of property (location of property with respect to compatibility with surrounding uses; location in special districts; and unique aspects of property and its setting);

e. Written description of how pedestrian access, circulation and connectivity will be addressed;

f. Written description of the relationship of the proposed design master plan to goals and policies of the city's comprehensive plan; and

g. Written description of proposed design concept, including identifying architectural styles and themes, building materials and color palette; landscaping, perimeter treatment, focal point and open space intent and theme; character sketches illustrating the basic roof forms, openings and materials; and reasons supporting these design proposals.

(c) The development concept master plan shall only be processed in conjunction with land use requests, such as zoning applications, including uses by special review.

(d) Upon approval of a development concept master plan by the city council, said plan shall remain effective until and unless a revised or amended development concept master plan is submitted to the city and approved using the same procedures under which the original plan was approved. Minor amendments shall be considered by the planning commission as long as none of the following are proposed:

(1) There is an increase in the number of lots or housing units or increase in square footage of nonresidential uses of more than five percent.

(2) There are changes in street alignment and/or access points, or other public improvements, such as drainage improvements or utility lines or facilities.

(3) There are other changes in the design master plan which make it in nonconformance with the city's comprehensive plan.

(Code 1994, § 18.30.055; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 31, 2006, § 1, 6-27-2006)

Sec. 24-627. City council and planning commission initiated rezonings.

(a) If the city council or planning commission wishes to initiate a rezoning, it shall direct the community development director to prepare a written report analyzing the proposal and to send a copy of that report, together

with a statement that the council or commission has initiated the rezoning, to the surface property owners of record of all property involved, except in cases which involve a comprehensive reclassification of land into the zoning districts established in this Development Code. The matter shall then be processed as other rezonings, except that no petition or fee shall be required.

(b) Neither the city council nor planning commission shall initiate a rezoning in order to place property into a planned unit development district.

(Code 1994, § 18.30.060; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-628. Table of principal land uses.

(a) Those land uses which are permitted, those which may be permitted through design review or use by special review, or land uses which are prohibited are shown in the table of principal land uses. Land uses not specifically listed on the table of principal land uses shall be presumed to be prohibited, except if the community development director determines that a land use not specifically listed is similar to and has similar impacts as a land use listed on the table of principal land uses, then the director may make a written determination as to the category and review required for such land use.

(b) No person shall use any land within the city except as provided in the table of principal land uses and except as provided for in chapter 19 of this title.

(c) Permitted uses, design review of permitted uses and uses by special review may be located in the same building or upon the same lot. Where more than one land use is located in the same building or on the same lot and such uses require different review procedures, the more restrictive review process, or that review process which results in higher standards, shall apply to all land uses located in the same building or on the same lot.

(d) The review procedure required for a specific land use in a zoning district shall be designated on the table of principal land uses as follows (See article III of chapter 5 of this title):

(1) "P" or permitted uses, where the use is permitted by right in the zoning district and is subject to a review by city staff to ensure basic zoning requirements and general performance standards have been met.

(2) "D" or design review for permitted uses, where the use is permitted in the zoning district, but is subject to review by city staff of both general and design review performance standards, as well as basic zoning requirements.

(3) "S" or use by special review, where all aspects of the proposed land use, basic zoning requirements and general and design review performance standards must be approved by the planning commission as provided for in article III of chapter 5 of this title.

(4) Prohibited uses shall be designated on the table of principal land uses as "- -".

(e) All developments which are located on an infill site as defined herein shall be treated as a design review use and shall be required to follow the applicable review procedures provided in article III of chapter 5 of this title.

(f) Any permitted or design review use which exceeds any of the specific limitations on the table of land uses for square footage, number of residents, or number of vehicles displayed on the site shall be reviewed as a use by special review and shall require use by special review approval under the applicable provisions of article III of chapter 5 of this title.

(g) All uses in the C-L Commercial Low Intensity District shall be limited to operation between the hours of 6:00 a.m. and 10:00 p.m. Retail stores and shops for the furnishing of personal services and sale of merchandise in the C-L District shall be limited to a maximum size of 3,000 square feet. Restaurants in the C-L District shall be limited in size to a maximum of 100 seats and shall not provide for the delivery of food or beverages to customers' vehicles on the premises.

(h) The land uses listed on the table of principal land uses shall generally be considered principal land uses.

(i) The review procedures and zoning districts which permit mixed uses are listed on the table of principal land uses as mixed uses and are not intended to be determined by looking for the particular residential or nonresidential use on the table.

(j) The following is an alphabetical listing ~~and index~~ of all land uses included on the table of principal land uses:

Accessory Uses (see chapter 15 of this title)	
Adult business	78
Adult school	74
Airport	78
Ambulance dispatch, storage	74
Amusement park	78
Aquarium	78
Arena	78
Art gallery	74
Asphalt batch plant	79
Assembly (manufacture)	79
Assisted living unit	74
ATM (automatic teller machine)	75
Auction house	74
Auditorium	78
Auto dismantling	78
Auto rental	74
Auto repair	74
Auto sales	74
Bank	75
Bar	75
Barber shop	76
Beauty salon	76
Bed and breakfast	76
Beverage processing	79
Bindery	79
Bingo hall, parlor	75
Boardinghouse	73
Bowling alley	77
Brewpub	75
Builders supply yard, office	75
Bulk storage (LP gas, flammable liquid)	78
Bumper car track	77
Bus depot	78
Bus sales, repair	79

Business school	74
Cafe	77
Car wash	74
Cemetery	73
Chemical manufacturing plant	78
Childcare, daycare	73
Church	73
Cleaning service	75
Co-generation plant	78
College	74
Columbarium	73
Communication tower, cabinet	80
Concrete plant	79
Contractor supply yard, office	75
Convenience store	75
Copy shop	77
Correctional, jail, detention facility	73
Country club	75
Crematorium	79
Dance studio	74
Daycare center (childcare)	73
Detention facility	73
Dental clinic, office	76
Diesel sales, repair	79
Dormitory	73
Drive-in restaurant	77
Drive-in theater	78
Drive-thru restaurant	77
Drive-up restaurant	77
Drive-up window, bank	75
Drive-up window, restaurant	77
Driving range	76
Dry cleaning (no cleaning on site)	75
Dry cleaning plant	79
Dwelling	73
Emergency shelter	73
Emission testing center	75

Entertainment establishments	75
Equipment rental	77
Exterminating shop	75
Fabrication	79
Farm equipment, implement sales, repair	79
Farmers' market	75
Farming	73
Feed elevator, supply	79
Financial institution	75
Fire station	74
Flea market	75
Food processing	79
Foundry	79
Fraternity	73
Freight terminal	80
Funeral home	76
Gallery	74
Garden shop	76
Gas station	75
Golf course	76
Go-cart track	77
Grain elevator, supply	79
Gravel batch plant	79
Greenhouse	76
Group home (8 or less residents)	73
Group home (over 8 residents)	74
Group quarters	73
Health club	77
Heliports	78
Hospital	73
Hotel	76
Intermediate care	74
Jail facility	73
Janitorial services	75
Junkyard	78
Kennel	74
Land lease community	73

Large equipment rental	80
Large retail	77
Laundromat	76
Laundry, commercial	79
Library	73
Livestock auction	79
Long-term care	74
Lounge	75
Lube shop	75
Machine shop	80
Mail center	77
Manufactured home sales, repair	76
Manufacturing	79
Martial arts studio	77
Massage therapist	76
Meat processing, packaging	79
Medical clinic, office	76
Medical sales, supply, rental	76
Membership club	77
Mineral extraction plant	79
Miniature golf	76
Mission	73
Mixed-use	73, 76
Mobile home	73
Mobile home community, park	73
Mobile home sales, repair	76
Mortuary	76
Motel	76
Movie theater	78
Moving and storage company	79
Multifamily dwelling	73
Museum	73
Nail salon	76
Newspaper office	79
Nursery (plant)	76
Office	76
Oil and gas operation	79

Open space	77
Outdoor storage	78
Park	77
Parking lot, structure	76
Pawn shop	76
Personal service shop	76
Pet store	74
Photo studio	74
Police station	74
Power plant	78
Preschool	73
Printing shop	77
Public building	73
Publishing plant	79
Quasi-public building	73
Racetrack	79
Radio station	77
Recreation building	77
Recycling center	79
Refuse transfer station	80
Rehab center	74
Rendering plant	79
Rental equipment, service	77
Repair shop	77
Research lab	79
Restaurant	77
Retail sales	77
Riding club	77
Rooming house	73
RV park	78
Salvage yard	78
Savings and loan	75
School	74
Secondary dwelling	73
Self-serve storage	78
Shoe repair	76
Shuttle depot	78

Single-family dwelling	73
Single room occupancy (SRO)	73
Skating rink	77
Slaughterhouse	79
Sorority	73
Sports arena	78
Stable	74
Stadium	78
Storage	79
Swap meet	75
Tanning salon	76
Tavern	75
Taxidermist	78
Telecommunication use	80
Television station	77
Temporary uses (see chapter 8 of this title)	
Tennis court	77
Testing lab	79
Theater	78
Theme park	78
Tire shop	75
Towing service	74
Town home, townhouse dwelling	73
Trade school	74
Trailer rental	80
Train depot	78
Transportation facilities	80
Travel trailer park	78
Truck rental	80
Truck wash	74
Trucking terminal	80
Two-family dwelling	73
University	74
Upholstery shop	78
Utility line	80
Utility service facility	80
Utility communication tower, cabinet	80

Veterinary clinic	74
Video arcade	77
Warehouse	78
Water, wastewater treatment plant	80
Welding shop	80
Well drilling company	80
Wholesale goods, sales	78
Communication Facilities	80
Zoo	78

TABLE OF PRINCIPAL LAND USES

See article VI of chapter 8 of this title for further information on Zoning District Development Standards

Infill sites require review of all land uses as Design Review Uses

Uses/Districts	*R-L,R-E*	*R-MH*	*R-M*	*R-H*	*C-L*	*C-H*	*I-L*	*I-M*	*I-H*	*H-A*	*C-D*	*PUD**
P = permitted uses; D = design review uses; S = use by special review; - - means use prohibited in district * Permit uses subject to PUD approval												
Residential												
Single-family dwellings--not permitted in PUDs as sole land use	P	- -	P	P	S	S	- -	- -	- -	P	- -	*
Two-family dwellings	- -	- -	P	P	S	S	- -	- -	- -	- -	- -	*
Multifamily dwellings	- -	- -	- -	P	S	S	- -	- -	- -	- -	- -	*
Townhouse dwellings	- -	- -	P	P	S	S	- -	- -	- -	- -	- -	*
Mobile homes, mobile home parks, land lease communities	- -	D	- -	- -	- -	- -	- -	- -	- -	- -	- -	*
Boardinghouses and roominghouses, dormitories, fraternities, sororities, group quarters, SROs	- -	- -	- -	P	S	S	- -	- -	- -	- -	- -	*
Farming	P	- -	P	P	P	P	P	P	P	P	P	*
Group homes (8 or fewer residents)	D	- -	D	D	D	D	- -	- -	- -	- -	- -	*
Group homes (more than 8 residents)	- -	- -	- -	S	S	S	- -	- -	- -	- -	- -	*
Group home, elderly (no more than 8 residents)	D	- -	D	D	D	D	- -	- -	- -	- -	- -	*
Mixed-use (must include residential)	- -	- -	- -	D	D	D	- -	- -	- -	- -	- -	*
Secondary dwelling	- -	- -	- -	D	D	D	- -	- -	- -	- -	- -	*
Institutional												
Cemeteries, columbariums	- -	- -	- -	- -	- -	P	P	P	P	- -	- -	*

Childcare, day care centers, preschools	S	- -	S	D	D	D	S	S	- -	- -	- -	*
Churches	S	S	S	S	S	P	P	S	S	- -	- -	*
Correctional, jail, detention facilities	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	*
Emergency shelters, missions	- -	- -	- -	S	S	P	S	- -	- -	- -	- -	*
Hospitals	- -	- -	- -	- -	S	P	- -	- -	- -	- -	- -	*
Intermediate and long term care, assisted living units (8 or fewer residents)	- -	- -	- -	D	D	D	- -	- -	- -	- -	- -	*
Intermediate and long-term care, assisted living units (more than 8 residents)	- -	- -	- -	S	P	P	- -	- -	- -	- -	- -	*
Libraries, museums, public or quasi-public	S	- -	S	S	P	P	P	P	- -	- -	- -	*
Police, fire stations, ambulance dispatch and storage	S	- -	S	S	P	P	P	P	- -	- -	- -	*
Recreation bldgs., facils., parks, open space (see recreation uses)												
Rehab centers	- -	- -	- -	S	P	- -	- -	- -	- -	- -	- -	*
Schools	S	S	S	S	S	S	S	- -	- -	- -	- -	*
Schools--adult (business, trade)	- -	- -	- -	- -	S	P	P	P	P	- -	- -	*
Universities, colleges	S	S	S	S	S	S	S	- -	- -	- -	- -	*
Commercial												
Animal uses--												
--Kennels	- -	- -	- -	- -	- -	D	D	D	D	- -	- -	*
--Pet stores	- -	- -	- -	- -	- -	D	D	D	- -	- -	- -	*
--Pet grooming shops	- -	- -	- -	- -	D	D	D	D	- -	- -	- -	*
--Stables (over 5 boarded--special review)	- -	- -	- -	- -	- -	- -	D/S	D/S	- -	D/S	- -	*
--Veterinary clinics (no outdoor runs)	- -	- -	- -	- -	D	D	D	D	- -	- -	- -	*

--Veterinary clinics (outdoor runs)	- -	- -	- -	- -	- -	- -	D	D	- -	- -	- -	*
Art, dance, photo studios, galleries	- -	- -	- -	- -	P	P	P	P	- -	- -	- -	*
Auction houses (excludes livestock)	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*
Auto uses												
--Auto rental (max 10 cars or vans)	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
--Auto repair, sales	- -	- -	- -	- -	- -	D	D	D	- -	- -	- -	*
--Over 1 acre in size, whether on individual sites or several such uses combined	- -	- -	- -	- -	- -	S	S	S	S	- -	- -	*
--Car and truck wash (3 or fewer bays)	- -	- -	- -	- -	- -	D	D	D	- -	- -	- -	*
--Over 3 bays	- -	- -	- -	- -	- -	S	S	S	S	- -	- -	*
--Comm. Truck wash	- -	- -	- -	- -	- -	- -	- -	- -	S	- -	- -	*
--Towing services	- -	- -	- -	- -	- -	P	P	P	P	- -	- -	*
Banks, savings and loans, financial institutions, ATMs, drive-up windows ("D" required for drive-up windows)	- -	- -	- -	- -	P/D	P/D	P/D	P/D	P/D	- -	- -	*
Bars, taverns, lounges	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
Bed and breakfasts (see lodging)												
Bingo halls and parlors	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
Bowling alleys (see recreation uses)												
Brewpubs	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
Builders, contractors supply, offices and yards												
--Max. 25 percent of GFA for indoor assembly	- -	- -	- -	- -	- -	P	P	P	P	- -	- -	*
--Max. 25 percent of site for outdoor storage	- -	- -	- -	- -	- -	S	S	D	D	- -	- -	*
Cleaning and janitorial services	- -	- -	- -	- -	- -	P	P	P	P	- -	- -	*
Convenience stores with gas sales	- -	- -	- -	- -	- -	D	S	S	S	- -	- -	*

Drive-in theaters (see theaters)												
Driving ranges (see golf uses)												
Dry cleaning (no cleaning on-site)	- -	- -	- -	- -	P	P	P	P	- -	- -	- -	*
Emission testing centers	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
Entertainment establishments					D	D	D	D				
Exterminating shops	- -	- -	- -	- -	- -	P	P	P	P	- -	- -	*
Flea and farmers' markets, swap meets - outdoor	- -	- -	- -	- -	- -	- -	- -	P	P	- -	- -	*
Food and beverage processing facility (minor)	- -	- -	- -	- -	- -	D	D	D	- -	- -	- -	- -
Gas stations gas stations with repair, lube and tire shops--including underground fuel storage	- -	- -	- -	- -	- -	D	D	D	D	- -	- -	*
--Sites over 1 acre in size	- -	- -	- -	- -	- -	S	S	S	S	- -	- -	*
Golf uses												
--Golf courses, country clubs, driving ranges w/out lighting	P	P	P	P	P	P	P	P	- -	- -	- -	*
--Golf courses, driving ranges with lighting	- -	- -	- -	- -	- -	P	P	P	P	- -	- -	*
--Miniature golf	- -		- -	- -	- -	P	P	P	- -	- -	- -	*
Hotels, motels (see lodging uses)												
Kennels (see animal uses)												
Laundromats	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
Lodging:												
--Bed and breakfast	- -	- -	- -	D	D	D	D	- -	- -	- -	- -	*
--Hotels, motels	- -	- -	- -	- -	- -	P	P	- -	- -	- -	- -	*
Manufactured, mobile homes -												
--Sales lots	- -	- -	- -	- -	- -	- -	P	P	- -	- -	- -	*
--Repair	- -	- -	- -	- -	- -	- -	- -	P	P	- -	- -	*

Medical and dental offices and clinics, massage therapists, medical supply, sales and rental	- -	- -	- -	- -	P	P	P	- -	- -	- -	- -	*
Miniature golf (see golf uses)												
Mixed-use (must include residential)	- -	- -	- -	D	D	D	- -	- -	- -	- -	- -	*
Mortuaries, funeral homes	- -	- -	- -	- -	P	P	P	P	- -	- -	- -	*
Movie theaters, indoor Theaters (see theaters)												
Nurseries, greenhouses, garden shops	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
Offices	- -	- -	- -	D	P	P	P	P	P	- -	- -	*
Parking lots and structures	S	S	S	S	S	P	P	P	P	- -	- -	*
Pawn shops	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
Personal service shops (beauty, barber, tanning and nail salons, shoe repair)	- -	- -	- -	D	P	P	S	S	- -	- -	- -	*
Pet stores (see animal uses)												
Printing, copying shops, mail centers	- -	- -	- -	- -	P	P	P	P	- -	- -	- -	*
Radio and TV stations	- -	- -	- -	- -	- -	P	P	P	P	- -	- -	*
Recreation uses												
--Community rec. bldgs.	S	S	S	S	S	P	P	P	P	- -	- -	*
--Indoor, outdoor extensive (skating rinks, bowling alleys, video arcades, riding clubs, tennis courts, etc.)	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
--Membership clubs, health clubs, martial arts studios	- -	- -	- -	- -	- -	P	P	- -	- -	- -	- -	*
--Outdoor intensive (go-cart tracks, bumper cars, etc.)	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
--Open space	P	P	P	P	P	P	P	P	P	P	P	*
--Park (pocket)	P	P	P	P	P	P	P	P	P	- -	P	*
--Park (neigh)	P	P	P	P	P	P	P	P	P	- -	P	*

--Park (comm/reg)	P	P	P	P	P	P	P	P	P	- -	P	*
Rental service (equipment, small tools, supplies, appliances, home furnishings)	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
Repair shops	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
Restaurants												
--Cafes, and other eating establishments (includes outdoor seating/eating areas)	- -	- -	- -	- -	P	P	S	S	- -	- -	- -	*
--Drive-in or drive-thru facilities (including outdoor seating areas)	- -	- -	- -	- -	- -	D	S	S	- -	- -	- -	*
--Drive-up window	- -	- -	- -	- -	- -	D	S	S	- -	- -	- -	*
Retail sales												
--Under 3,000 sq. ft. GFA (one or combination of stores)	- -	- -	- -	- -	P	P	S	S	- -	- -	- -	*
--3,000--20,000 sq. ft. GFA (1 or combination of stores)	- -	- -	- -	- -	- -	P	S	S	- -	- -	- -	*
--Large retail (over 20,000 sq. ft.)	- -	- -	- -	- -	- -	D	S	S	- -	- -	- -	*
--Large retail (over 100,000 sq. ft. GFA)	- -	- -	- -	- -	- -	S	S	S	- -	- -	- -	*
RV and travel trailer parks	- -	- -	- -	- -	- -	S	S	S	- -	- -	- -	*
Stables (see animal uses)												
Taxidermist	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*
Theaters												
--Drive-in	- -	- -	- -	- -	- -	S	S	S	P	- -	- -	*
--Indoor, movie	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
--Outdoor auditoriums, sports arenas, stadiums	- -	- -	- -	- -	- -	S	S	S	- -	- -	- -	*
Theme or amusement parks, zoos, aquariums	- -	- -	- -	- -	- -	S	S	S	S	- -	- -	*
Towing services (see auto uses)												
Train, shuttle, bus depots	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*

Upholstery shops	- -	- -	- -	- -	- -	P	P	P	- -	- -	- -	*
Veterinary clinics (see animal uses)												
Warehousing	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*
--Outdoor storage	- -	- -	- -	- -	- -	- -	S	D	D	- -	- -	*
--Recreation vehicle/equipment, boat and personal vehicle storage	- -	- -	- -	- -	- -	S	S	D	D	- -	- -	*
--Self-serve storage units	- -	- -	- -	- -	- -	D	D	D	D	- -	- -	*
--Sites over 5 acres in size	- -	- -	- -	- -	- -	S	S	S	S	- -	- -	*
Wholesale goods and sales	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*
Industrial												
Adult business	- -	- -	- -	- -	- -	- -	D	D	D	- -	- -	*
Airports, heliports	- -	- -	- -	- -	- -	- -	- -	S	S	- -	- -	*
Auto dismantling, junk and salvage yards	- -	- -	- -	- -	- -	- -	- -	- -	S	- -	- -	*
Bulk storage of flam. liquids and gases--LP tanks as per fire code	- -	- -	- -	- -	- -	- -	- -	P	P	- -	- -	*
Chemical manufacturing plants	- -	- -	- -	- -	- -	- -	- -	S	S	- -	- -	*
Co-generation and power plants	- -	- -	- -	- -	- -	- -	- -	P	P	- -	- -	*
Commercial laundries and dry-cleaning plants	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*
Concrete, asphalt batch plants	- -	- -	- -	- -	- -	- -	- -	P	P	- -	- -	*
Crematoriums	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*
Farm equipment, implement, diesel and bus sales and repair	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*
Food and beverage processing facility (major)	- -	- -	- -	- -	- -	- -	- -	S	S	- -	- -	- -
Foundries	- -	- -	- -	- -	- -	- -	- -	- -	S	- -	- -	*
Gravel and mineral extraction, batch plants	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	S	*

Grain and feed elevators and supply	- -	- -	- -	- -	- -	- -	- -	- -	S	- -	- -	*
Livestock auctions	- -	- -	- -	- -	- -	- -	- -	- -	S	- -	- -	*
Manufacturing, fabrication, assembly	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*
Moving and storage companies	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*
Newspaper and publishing plants, binderies	- -	- -	- -	- -	- -	P	P	P	P	- -	- -	*
Oil and gas operations	S	S	S	S	S	S	S	S	S	S	S	*
Racetracks	- -	- -	- -	- -	- -	- -	- -	S	S	- -	- -	*
Recycling centers -												
--Small collection	- -	- -	- -	- -	S	D	D	D	D	- -	- -	*
--Large collection and processing facility	- -	- -	- -	- -	- -	D	D	D	D	- -	- -	*
Refuse transfer stations (see waste mgmt.)												
Rendering plants, slaughterhouse, meat processing, packaging	- -	- -	- -	- -	- -	- -	- -	- -	S	- -	- -	*
Research and testing labs	- -	- -	- -	- -	- -	P	P	P	P	- -	- -	*
Telecomm. uses												
--Satellite earth station antennas over 3 feet in diameter	D	D	D	D	D	D	D	D	D	- -	- -	*
--Utility, transmission towers and cabinets less than building height permitted by zone	D	D	D	D	D	D	D	D	D	- -	- -	*
--Utility, transmission towers and cabinets over building height permitted by zone	S	S	S	S	S	S	S	S	S	- -	- -	*
Transportation facils.												
--Low impact	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*
--High impact	- -	- -	- -	- -	- -	- -	- -	P	P	- -	- -	*
Truck, trailer and large equipment rental	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*

Trucking and freight terminals	- -	- -	- -	- -	- -	- -	- -	P	P	- -	- -	*
Utility serv. facilities												
--Less than 300 sq. ft., no office or storage space	P	P	P	P	P	P	P	P	P	- -	- -	*
--More than 300 sq. ft., no office or storage space	S	S	S	S	S	S	S	P	P	- -	- -	*
Utility, tele. towers and cabinets (see telecomm. Uses)												
Utility lines--over 33 KVA, overhead	S	S	S	S	S	S	S	S	S	S	S	*
Waste mgmt. --Refuse transfer	- -	- -	- -	- -	- -	- -	- -	S	S	- -	- -	*
Water and wastewater treatment plants	- -	- -	- -	- -	- -	- -	- -	P	P	- -	- -	*
Welding, machine shops	- -	- -	- -	- -	- -	- -	P	P	P	- -	- -	*
Well drilling companies	- -	- -	- -	- -	- -	- -	- -	P	P	- -	- -	*
Wireless comm. facilities												
--Eligible facilities requests	P	P	P	P	P	P	P	P	P	S	S	P
--Small cell facilities, in the right-of-way	P	P	P	P	P	P	P	P	P	P	P	P
--Small cell facilities	P	P	P	P	P	P	P	P	P	P	P	P
--Base stations	D	D	D	D	D	D	D	D	D	D	D	D
--Alternative tower structures	D	D	D	D	D	D	D	D	D	D	D	D
--Alternative tower structures, in the right-of-way	D	D	D	D	D	D	D	D	D	D	D	D
--Towers, other	S	S	S	S	S	S	S	S	S	S	S	S
***												

* Permit uses subject to PUD approval.

Note: Infill locations require design review for all land uses.

(Code 1994, § 18.30.070; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 59, 2003, § 1, 10-7-2003;

Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 6, 2006, § 1, 3-7-2006; Ord. No. 01, 2007, § 2, 1-2-2007; Ord. No. 04, 2008, § 5, 2-5-2008; Ord. No. 25, 2010, § 1, 7-20-2010; Ord. No. 30, 2015, § 1(exh. A), 8-18-2015; Ord. No. 32, 2018, exh. B(18.30.070), 8-7-2018)

Secs. 24-629--24-659. Reserved.

~~CHAPTER 18.32~~ ARTICLE II. PLANNED UNIT DEVELOPMENTS

Sec. 24-660. Purpose and intent.

The purpose of this chapter is to designate areas for the achievement of site design which provides a development of mixed land uses, or for uses and site designs which cannot otherwise be accommodated without PUD approval, through flexibility and creativity and to produce planned unit developments which are in keeping with the overall goals and objectives of the city's comprehensive plan. The intent is to permit such flexibility and provide performance criteria which:

(1) Allow a diversity of uses, structures, facilities, housing types, open space and buffers in a manner compatible with existing and planned uses on adjacent properties;

(2) Encourage and allow for greater innovative designs that promote more efficient and environmentally sensitive use of the land than generally achievable through conventional zoning and development regulations;

(3) Protect the environment by affording opportunities and incentives for the preservation of environmentally sensitive and important natural or historic areas;

(4) Promote the meaningful integration of common open area networks and developed recreation areas;

(5) Promote further creativity in development layout, design and construction;

(6) Encourage development to occur in accordance with the coordinated and planned extension of existing and programmed community facilities and infrastructure; and

(7) While the PUD may permit development of land in a way which might not be permitted under traditional zoning regulations, the PUD is not intended to modify or in any way alter or reduce the requirements of any building and/or zoning code requirements, unless commensurate benefits to the community are provided as part of the PUD plan and alternative protections are provided.

(Code 1994, § 18.32.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-661. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Planned unit development (PUD) means a development planned, designed and constructed with specific standards as an integral unit and which typically consists of a combination of uses on land within a PUD district and provides for a higher level of standards.

Planned unit development, final plan, means a site specific development plan which describes all details for a specific site and which shall require detailed engineering and design approval as provided in this chapter.

Planned unit development, master plan, means a plan required for properties which are intended to be developed over time and which shall include general information on street pattern, school sites, parks or other public areas or facilities and land uses and utility systems within the area surrounding a proposed PUD.

Planned unit development, preliminary plan, means a plan that specifies the range of land uses and general layout of improvements, landscaping and buffering, circulation, setbacks, open space and height and massing of buildings and structures proposed for the site.

Usable open space means area which is unoccupied by principal or accessory buildings and which is available to all occupants of the building or development for use for recreational and other leisure activities normally carried on outdoors. The area shall be unobstructed to the sky and shall have a minimum dimension of 50 feet and a minimum area of 6,000 square feet, excluding setbacks adjacent to rights-of-way. The requirement for usable open space may be met by providing one recreational amenity, not otherwise required, per 1,000 square feet of required usable open space, based on the following:

(1) Playgrounds with commercial grade equipment, picnic/barbeque areas with commercial grade equipment, or court games (tennis, volleyball or basketball) at least 1,000 square feet in size shall each count as one recreational amenity.

(2) Individual balconies, decks or patio areas that are not intended or designed to be enclosed. Providing balconies, decks or patio areas for all dwelling units shall count as one-half recreational amenity.

(3) A system of pedestrian trails shall count as one-half recreational amenity.

(4) Plazas, or atria within a building, excluding hallways, which cover at least 1,000 square feet in size shall each count as one recreational amenity.

(5) In-the-ground swimming pools at least 20 feet by 40 feet and community buildings at least 2,000 square feet in size shall each count as two recreational amenities.

(6) 75 percent of humanmade detention/retention pond area shall be counted as usable open space. If a landscape plan to be installed by the developer is approved by the community development director, 100 percent credit shall be given for humanmade detention/retention ponds. 100 percent of natural pond area shall be counted as usable open space.

(7) Site characteristics of natural significance which may offer aesthetic or ecological value may qualify, as approved by the city.

(8) Active garden plots in common areas may be counted toward meeting usable open space or recreational amenity requirements as determined by the community development director, based on a review of the extent and location of garden plots, desirability for future residents and variety of amenities proposed.

(Code 1994, § 18.32.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-662. Application.

Land areas shall be eligible for planned unit developments (PUD) only if the area has been zoned as a planned unit development. Application for rezoning of a site as a planned unit development requires the submission of a preliminary PUD plan, which meets all applicable provisions of this chapter, for consideration along with the rezoning request.

(Code 1994, § 18.32.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-663. Standards for PUD establishment.

(a) Land area shall be zoned as a planned unit development only upon the application of all landowners of the area and only if the city council, after considering planning commission recommendations, has concluded on the basis of a preliminary plan submitted by the landowner that the area will be suitable for development pursuant to a PUD plan.

(b) In reaching recommendations and decisions as to rezoning land to the PUD district, the planning commission and the city council shall apply the following standards in addition to the standards and procedures of section 24-625 applicable to the rezoning of land:

(1) Area requirements. The area of a proposed PUD shall be of substantial size to permit its design and development as a cohesive unit fulfilling the stated purpose of these regulations and to establish the PUD as a meaningful part of the larger community. Each proposed PUD shall therefore be evaluated as to its adequacy in size with respect to both the nature and character of its internal design and to its specific location within the city. The minimum size of a PUD to be considered for establishment shall be two acres, except as provided for in subsection (c) of this section.

(2) Consistency with the land use chapter of the comprehensive plan. A PUD proposal shall be found to be consistent with all applicable elements of the land use chapter of the city's adopted comprehensive plan with respect to its proposed internal design and use and its relationship to adjacent areas and the city as a whole before it may be zoned as a PUD.

(3) Upon the specific request of the landowner or upon the recommendation of the planning commission or

city council, the two-acre requirement in subsection (b)(1) of this section may be waived if, after considering the proposed development requested, the city council finds that such waiver would be beneficial to the city and foster the objectives of this Development Code and the land use chapter of the city's comprehensive plan.

(c) The city council may authorize, by its approval of a preliminary planned unit development plan, a mix of land uses, as well as variations in density, setback, height, lot size, lot coverage, open space, street width, parking and landscaping. Any such variations granted by the city council shall be based upon the findings by the council that the PUD plan:

(1) Provides an innovative design which would be equal to or better than development which would occur under base standard zoning district requirements;

(2) Accomplishes specific goals and objectives of the land use chapter of the city's comprehensive plan;

(3) Includes land uses which are required to be in a PUD;

(4) Meets the overall intent of this Development Code; or

(5) Provides equivalent site design trade-offs for the exceptions granted (i.e., more open space for higher density, etc.).

(d) The general performance standards in chapter 9 of this title and design review performance standards in chapter 12 of this title, as well as other applicable provisions of this Development Code, including overlay districts in article III of chapter 8 of this title, areas of ecological significance in chapter 13 of this title, hillside development standards in chapter 14 of this title and signs in chapter 17 of this title shall be considered in the planning and design of a PUD and shall be the point from which negotiation between the city and the applicant begins.

(e) The PUD shall, at all times, be under the unified control or ownership of an individual, a legal entity or a legally established association or organization, such as a property owner's association, responsible for the ownership and maintenance of all required improvements and common facilities, infrastructure, amenities, elements and areas. All documents establishing said association or organization shall be reviewed and approved by the city attorney's office prior to any approval of a final PUD plan and shall be recorded as part of the PUD approval documents.

(f) Strict conformance with an approved PUD plan and all related approval documents shall be required, except as may be permitted under section 24-675. Nonconformance with approved plans and documents shall constitute a zoning violation and shall be subject to all penalties as described in chapter 9 of title 1 of this Code.

(g) A filing plat shall be submitted concurrently with any final PUD on a previously unsubdivided site, tract or parcel of land and/or in order to create parcels, dedicate and vacate easements and/or rights-of-way.

(h) No more than one PUD plan shall be approved for any specific parcel of property at any given time. The most recently approved PUD plan shall constitute the valid PUD plan unless rendered invalid in accordance with law, and any prior approved PUD plan shall automatically terminate upon the final approval of a subsequent PUD plan.

(Code 1994, § 18.32.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 48, 2000, § 1, 10-3-2000; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-664. Uses permitted.

(a) Single-family dwellings on individually-owned lots shall not be permitted as PUDs except as part of a mixed-use development with common control and elements.

(b) The only uses permitted in the planned unit development shall be as specified on the PUD plan and as approved by the city council. The council may authorize a mix of land uses in approving a PUD plan.

(c) The type, general location and extent of all proposed uses shall be clearly designated as part of the preliminary plan, as applicable. The PUD plan shall not be intended to allow land uses which are otherwise prohibited in the city.

(d) PUD plans which include residential land uses shall contain a minimum average gross density of ten

dwelling units per acre for the residential portion of the PUD. If the proposed PUD has a mix of residential and nonresidential land uses, then gross residential density shall be calculated on the amount of land area or floor area that is devoted exclusively to residential land uses.

(e) Any proposed change of approved land uses shall require a new hearing and approval action in accordance with the review and approval procedures described herein. Minor refinements in size, configuration or location of buildings, landscaping and other similar site improvements may be approved by the community development director as long as no greater impact is deemed to occur to adjacent properties as a result of the site design modification.

(f) Accessory uses normally associated with uses permitted as part of the approval action on a specific PUD proposal shall be permitted at those locations and in an intensity as normally provided for within similar zoning districts of the city, unless such accessory uses are expressly prohibited within the council approval action or are otherwise regulated by the action approving the PUD.

(Code 1994, § 18.32.050; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-665. Open space requirements.

(a) A minimum of 30 percent of the gross land area included in residential PUDs shall be maintained in open space or other common facilities as defined in section 24-661. PUDs containing a combination of residential and nonresidential land uses shall also provide a minimum of 30 percent of the gross land area of that portion of the development planned for residential use in usable open space or other common facilities. Of the required open space, at least 50 percent shall be usable open space or recreational amenity (see also article VI of chapter 8 of this title).

(b) Usable open space or recreational facilities shall be proportionately distributed throughout the development where practicable and when related to a particular phase of development and, when possible, shall be designed to link with existing or planned community or regional trail systems. The required open space or other recreational facilities shall be accessible to and maintained for the enjoyment of the property owners and residents of the PUD and shall be designated on the PUD plans and plat as outlots.

(c) The developer shall provide for and establish a mechanism such as a homeowners' association, for the ownership and maintenance of usable open space or other recreational facilities contained within a PUD as provided for in section 24-663(e).

(Code 1994, § 18.32.060; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 4, 2006, § 1, 1-17-2006)

Sec. 24-666. Phasing.

Final planned unit development plans may be phased and phasing shall be shown on all final PUD plans as provided herein. Phasing shall be arranged and designed in such a manner that at any point in a project's development, the initial phase or any successive group of phases shall be able to stand alone, meeting all applicable standards set forth and referenced in this chapter and as approved by the city.

(Code 1994, § 18.32.070; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-667. PUD procedures.

A PUD plan shall be processed in two stages: preliminary plan and final plan. (See the illustrations at sections 24-669 and 24-673.) In addition, a filing plat may be required for planned unit developments (PUDs) and shall be submitted and reviewed as part of the final PUD request as provided in section 24-290.

(1) As provided in section 24-662, a preliminary PUD plan shall be required for rezoning to the PUD district. A preliminary plan shall specify the range of land uses and general layout of improvements, landscaping and buffering, circulation, setbacks, open space and height and massing of buildings and structures proposed for the site. A pre-application conference with city staff on the preliminary plan is recommended. A master plan shall be required as part of the preliminary plan submittal for properties which are intended to be developed over time and shall demonstrate the relationship to adjacent properties within one-fourth mile, including the following:

a. General street pattern with particular attention to collector streets and future circulation throughout the area.

b. General location and size of existing and proposed school sites, parks or other public areas or facilities.

c. Location of existing land uses, zones and utility systems.

(2) The final PUD plan is the site-specific development plan which describes all details for a specific site and shall require detailed engineering and design approval as provided in section 24-672.

(Code 1994, § 18.32.080; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-668. Preliminary plan submittal and required information.

(a) Eight copies of the preliminary site plan and an applicable number of copies of required supporting data and documents, prepared in accordance with requirements as set forth in subsection (c) of this section, shall be filed with the community development department staff, along with related application fees. All submittal materials shall be collated into sets by the applicant. Additional copies of the preliminary site plan and supporting data may be requested by staff and, upon request, shall be provided by the applicant.

(b) The information required as part of the preliminary plan submittal shall be shown graphically or by note on plans and may comprise several sheets showing various elements of required data. All mapped data for the preliminary plan shall be drawn at the same engineering scale, said scale being legible and having not more than 100 feet to one inch and shall be provided on pages measuring 24 inches by 36 inches. All preliminary site plan submittals shall contain the information specified in chapter 5 of this title.

(c) In addition to the preliminary site plan, the following supporting documents and data shall be submitted:

(1) Project narrative (one copy), consisting of a written description of the rezoning criteria/justification, proposed PUD plan referencing all applicable areas of this Development Code and including a written statement for any variance and/or waiver request, referencing applicable sections of this chapter and information supporting such request.

(2) All applicable preliminary plans and reports, as required in section 24-160(b), as follows:

a. Preliminary engineering plans (eight copies) prepared by a professional engineer registered in the state, containing:

1. Alignment and dimensions of all proposed roadways and sidewalks; and

2. Maximum and minimum grades for all proposed roadways and sidewalks.

b. Preliminary utility plans (eight copies), prepared by a professional engineer registered in the state, containing:

1. Alignment of all existing and proposed utility lines;

2. Existing and proposed easements;

3. Size of existing and proposed water and sewer lines;

4. Location of existing and proposed fire hydrants; and

5. Location of all proposed improvements within the public right-of-way.

c. Preliminary drainage plan and report (three copies), prepared by a professional engineer registered in the state, containing:

1. Designation of any area subject to inundation;

2. Location of existing watercourses, floodway and flood fringe locations and applicable permits;

3. Details of proposed over-lot grading, including significant features such as retaining walls and grades matching adjacent properties;

4. Direction of stormwater flow;

5. Points of diversion; and

6. Types and locations of existing and proposed storm drainage structures and stormwater detention facilities.

d. Soils report (three copies) containing:

1. Description of soils existing on the site, accompanied by analysis as to the suitability of such soils for the intended construction;

2. Description of the hydrologic conditions of the site with analysis of water table fluctuation and a statement of site suitability for the intended construction; and

3. Location and extent of recoverable gravel areas, if applicable.

e. Contour map (three copies) showing existing and proposed two-foot contour elevation.

f. Traffic impact study (unless waived by the public works director) (three copies), prepared by a traffic engineer, containing:

1. Projected traffic generated as a result of the proposed development;

2. Review of existing traffic volumes in the area of the proposed developments; and

3. Analysis of affected roadways to accommodate both the existing and projected traffic.

(3) Preliminary landscape plan (three copies) addressing the requirements of this chapter, including required buffering and the preliminary perimeter treatment for those developments which border arterial or major collector streets.

(4) Preliminary architectural elevations in sufficient detail to show the architectural intent of proposed buildings and structures.

(5) If required, a master plan (three copies), as provided in section 24-667(1).

(6) Perspectives and/or cross-sections may be required to demonstrate compatibility.

(7) A detailed listing of land use/site design deviations from code requirements and compensating off-sets or trade-offs (i.e., more open space for higher density).

(8) One 8 1/2 inches by 11 inches reduction of the preliminary site plan and master plan, if applicable.

(9) Such additional information as may be required by the community development director in order to ensure a complete and comprehensive review of the proposed preliminary plan.

(Code 1994, § 18.32.090; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-669. Preliminary plan review.

(a) Upon determination by community development department staff that the preliminary plan submittal is complete and technically eligible to be processed for formal consideration, the staff shall furnish any interested parties or affected agencies and offices with a copy of such plans and related supporting documents for review and comment. Where applicable, a courtesy notice shall be sent to neighborhood property owners.

(b) All such reviewing agencies and offices will have two weeks from the date of distribution of the plan and supporting documents to make any objections or comments to community development department staff. This time period may be extended to the minimum needed to complete the review. The community development department staff shall provide written comments to the applicant within a reasonable time after a complete submittal is made. The community development department staff shall include a summary of all comments received on the preliminary plan, along with the staff recommendation, in a report which shall be presented to the planning commission for consideration with the preliminary plan.

(c) The planning commission shall hold a public hearing on the preliminary PUD plan and shall provide notice of said hearing as provided for in article II of chapter 5 of this title. The planning commission review shall be conducted in two steps: a determination of whether the rezoning criteria has been met; and if so, whether the PUD plan is acceptable. In making a recommendation on a preliminary plan, the planning commission shall consider

all comments received from agencies or offices affected by the plan, the staff recommendation and all comments received from the applicant and citizens. The commission shall also determine if the proposed preliminary plan meets the standards in this chapter and make a finding as to the criteria met or deficient, in taking action to recommend approval, approval with conditions, denial or to table the plan for future consideration.

(d) The city council shall hold a public hearing on the preliminary plan and shall provide notice of said hearing as provided for in article II of chapter 5 of this title. The city council review shall be conducted in two steps: have the rezoning criteria been met; and if so, is the PUD plan acceptable. In taking action on a preliminary plan, the city council shall consider the recommendation of the planning commission as well as any comments received from affected agencies or offices, the staff and all comments received from the applicant and citizens. The council shall also determine if the proposed preliminary plan meets the standards in this chapter and shall make a finding as to the criteria met or deficient, in taking action to approve, approve with conditions, deny or table the plan for future consideration. The decision of the city council on a preliminary plan shall be considered final unless appealed under the provisions of chapter 7 of this title.

[GRAPHIC - Preliminary PUD review]

(Code 1994, § 18.32.100; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-670. Time limit for validity of preliminary plan.

(a) Approval of a preliminary plan shall be valid for a period of three years from the date of approval by the city council. Within this three-year period, the applicant shall file a final plan with the community development department. Upon written application, and for good cause, the community development director shall extend the preliminary approval period for two consecutive six-month periods. Any additional six-month extensions may be approved, if at all, by the city council. A request for extension of preliminary approval must be submitted by the developer prior to the date of expiration. Failure to submit a written request within the specified time period shall cause forfeiture of the right to extend the preliminary PUD approval. If no final plan is filed with the community development department within such time, the approved preliminary plan shall be considered null and void. The city council may hold a public hearing to rezone the property or may leave the property with an expired PUD; however, before any development of such parcel may proceed, a new PUD plan or rezone must be approved by city council and be resubmitted as a new proposal under the provisions of this chapter. In the event that the final plan covers only a portion of the territory covered by the preliminary plan, such approval of the preliminary plan shall be automatically renewed for additional periods of three years following the approval of each final plan.

(b) After denial of a preliminary PUD plan, no application for the same or substantially similar request shall be made for 12 consecutive months immediately following the denial.

(c) Vesting of the land use approval in a PUD shall occur at final PUD approval.

(Code 1994, § 18.32.110; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-671. Combined preliminary and final plan submittal.

(a) Combined preliminary and final plan submittals shall be reviewed by the community development director and shall be accepted or rejected as a combined submittal by the director. If rejected, the city shall consider the submittal solely as a preliminary plan which shall be processed under the provisions of section 24-669. Criteria for consideration of a combined submittal shall include such things as the size of the tract of land, percent of the site already developed and the nature of existing and proposed land uses.

(b) Combined preliminary and final plan submittals shall provide all information and supporting data and documents required in sections 24-668 and 24-672.

(c) Combined preliminary and final plan submittals shall be processed and reviewed as a preliminary plan under the provisions of section 24-669 and, upon approval, shall be deemed a final plan for the purposes of the provisions of section 24-673. Combined preliminary and final PUD plan submittals may be reviewed and considered as separate decisions on both the preliminary and the final by the city council. With a combined application, the final PUD plans shall be approved by city council.

(Code 1994, § 18.32.120; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-672. Final PUD plan submittal and required information.

(a) After approval by the city council of the preliminary plan and within the time that such approval remains effective, the applicant shall present a final plan for review and approval by the planning commission. Plans approved under a previous code shall be bound by all applicable provisions and all conditions under which the plan was approved, and the final plan shall be designed to be in substantial conformance with the approved preliminary plan. For the purposes of this chapter, substantial conformance, including design adjustments made to meet any conditions of preliminary plan approval, is determined as follows:

(1) Does not change the land use of the proposed plan and includes a similar proportionate mix of land uses.

(2) Does not alter the number of residential dwelling units by more than five percent, or increase or decrease the amount of gross floor area in a nonresidential use by more than ten percent.

(3) Does not alter access locations, unless at the direction of the city, nor increase any impacts of traffic circulation in the area.

(4) Does not alter the use or character of the development which would result in a change in the outward appearance of the development as a whole.

(5) Does not contain changes which would normally render the final plan to be in nonconformance with the requirements of this chapter.

(6) Final plans determined by the community development director to have changes that exceed the definition of substantial conformance shall be treated as a preliminary plan and shall be referred to the planning commission for consideration, unless the applicant withdraws the request.

(7) Variances to the approved preliminary plan which show on the final PUD plan may result in suspension of the final PUD review process.

(b) Eight copies of the final plan and required supporting data and documents prepared in accordance with requirements as set forth in subsection (c) of this section shall be filed with the community development department staff, along with related application fees. All submittal materials shall be collated into sets by the applicant. Additional copies of the plan and supporting data may be requested by staff and, upon request, shall be provided by the applicant.

(c) The information required as part of the final plan submittal shall be shown graphically, by note on plans or by narrative, and may comprise several sheets showing various elements of required data. All mapped data for the same plan shall be drawn at the same engineering scale, said scale having not more than 100 feet to one inch and shall be provided on pages measuring 24 inches by 36 inches. All final site plan submittals shall contain all applicable information specified in chapter 5 of this title. In addition to the final site plan, the following supporting documents and data shall be submitted:

(1) If applicable, a development agreement (three copies), which is the agreement to construct any such required improvements. Said agreement shall specify all improvements to be constructed by the developer, as well as the timetable for the construction of the improvements, any special conditions of construction, and cost estimates at 100 percent of the total cost of required improvements.

(2) All final plans and reports as required in section 24-196(b), as follows:

a. Final utility plans (eight copies), prepared by a professional engineer registered in the state, required on separate sheets if so determined by the city engineer, and containing:

1. Detailed drawings of all easements, physical lines and other equipment and apparatus for providing water, sanitary sewer, fire protection, electricity, natural gas and any other required utility services; and

2. Detailed drawings showing grades and cross-sections of all streets, alleys and sidewalks.

b. Final drainage plans and report (two copies) prepared by a professional engineer registered in the state. A brief summary of drainage requirements is listed in section 24-196(b)(8). For a complete list of requirements, see the city's Storm Drainage Design Criteria Manual.

c. Dust abatement and construction traffic plan, consisting of a written description of methods to control dust and routes planned for construction traffic to access and exit the construction site.

d. Stormwater management plan, including a plan for erosion and sediment control. This plan may include the drainage plan and report as required in subsection (c)(2)b of this section.

(3) If applicable, final plat containing all information as required in section 24-196(a).

(4) Project narrative, consisting of a written description of how the final plan conforms with the approved preliminary plan, conditions added at the time of preliminary plan approval and any other changes or variances which were not a part of the preliminary PUD plan.

(5) Final landscape plan (three copies) meeting all requirements of chapter 11 of this title, including buffering and the final perimeter treatment plan, if applicable, showing materials, techniques and sizes proposed for the site's perimeter treatment, such as landscaping, fencing, screening walls or a combination of such items and addressing the applicant's responsibility to establish a mechanism for the installation and long-term maintenance of such materials placed between the back of curb and property line.

(6) Final architectural elevations, including the identification and samples of all proposed materials and color samples of all proposed improvements.

(7) Soil and pavement design report documenting soil conditions and proposed pavement installation with the structural cross-sections for parking lots and streets.

(8) Copy of any existing or proposed deed restrictions or covenants for the property.

(9) Information on all proposed signs, including location, dimensions, materials and colors.

(10) Perspective and/or cross-section drawings as needed.

(11) Evidence that the homeowners' association is or will be established.

(12) Evidence that current property taxes for subject property have been paid, if subdividing is involved.

(13) Such additional information as may be required by the community development director in order to ensure a complete and comprehensive review of the proposed final plan, or required to address any conditions of preliminary plan approval.

(Code 1994, § 18.32.130; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 4, 2006, § 1, 1-17-2006)

Sec. 24-673. Final plan review.

(a) Upon determination by community development department staff that the final plan submittal is complete and that the final plan is in substantial conformance with the approved preliminary plan, the staff shall furnish interested and affected agencies and offices with a copy of such plan and related supporting documents for review and comment.

(b) All such reviewing agencies and offices will have two weeks from the date of distribution of the plan and supporting documents to make any objections or comments to community development department staff. This time period may be extended to the minimum needed to complete the review. The community development department staff shall provide written comments to the applicant within a reasonable time after a complete submittal is made. The community development department staff shall include a summary of all comments received on the final plan along with the staff recommendation in a report which shall be presented to the planning commission for consideration of the final plan.

(c) The planning commission shall hold a public hearing on the final plan and shall provide notice of said hearing as provided for in article II of chapter 5 of this title. In making a decision on a final plan, the planning commission shall consider any comments received from agencies or offices receiving copies of the final plan, the staff recommendation and all comments received from the applicant and citizens. If the final plan is determined to be in substantial conformance with the approved preliminary plan, the final plan shall be approved by the commission. In addition to all other requirements and conditions set forth herein, it shall be a condition of the final

plan that all required city and recording fees be paid.

(d) The decision of the planning commission on a final plan shall be considered final unless a party-in-interest elects to appeal the planning commission decision to the city council, in which case, the decision of the city council shall be final. Appeals must be filed in writing with the community development department within ten working days of the decision of the planning commission. Such appeal period may be suspended if written release is provided by the applicant and if no other parties-of-interest are involved. Appeals shall meet all provisions of chapter 7 of this title.

(e) After approval of a final plan and upon completion of all related documents to the satisfaction of the city, the community development director shall cause the PUD approval document to be recorded in the county clerk and recorder's office. Site work shall not commence until all such documents are recorded.

(f) With approval of a final plan and plat, the developer shall be deemed to have agreed to construct, at the developer's expense, all improvements required by chapter 4 of this title, including those improvements noted on the final plan and plat, final landscape plan, streets and alleys and improvements shown on the drainage and utility plans. The developer shall provide a written agreement with the final plan submittal, legally binding the developer to construct improvements required by chapter 4 of this title and shall also provide final as-built construction plans of streets and other public improvements. Said agreement shall be mutually acceptable to the developer and the city and shall specify all improvements to be constructed by the developer, either for the entire development or for a particular phase of the development, and shall include a time table for the construction of the improvements, any special conditions of construction and a cost estimate at 100 percent of the total construction costs. In lieu of the completion of all required improvements prior to the issuance of building permits as provided in section 24-342, the developer may elect to post a financial guarantee acceptable to the city, in the amount of 125 percent of the total installed cost of all required improvements, as required under other adopted city regulations, to ensure completion and payment for all improvements. Said financial guarantee may be reduced in increments of $10,000.00 upon the completion of a portion of the required improvements, as deemed appropriate by the city and as provided for in the development agreement. This agreement shall be recorded in the county clerk and recorder's office.

[GRAPHIC - Final PUD reivew]

(Code 1994, § 18.32.140; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-674. Time limit for validity of final plan.

(a) The developer shall undertake and complete all work within the public right-of-way of an approved final plan or plat within three years from the date of final approval, or for phased developments, within three years of the completion of each phase. final PUD plans approved prior to the adoption of this Development Code shall have three years from the effective date of the ordinance codified in this Development Code to have all work completed within the public right-of-way. For the purposes of this section, a final plan or plat is considered complete once all public improvements (water, sewer, streets, curbs, gutters, sidewalks, streetlights, fire hydrants and storm drainage improvements) are installed and completed in accordance with city regulations. In the event that construction or development is intended to occur over a period of time in phases, each phase shall provide the necessary level of improvements as determined and required by the city to support the particular phase and the determination of whether a development is considered complete for the sole purpose of defining this time limit shall be based solely on those improvements required with that particular phase. Construction drawings may be amended from time to time and shall not be affected by this time limit and such amendments shall not be construed to extend the time limit.

(b) Extensions, for good cause, for successive periods of not more than 12 months shall be granted by the planning commission. A request for extension of final approval under this section must be submitted to the commission in writing prior to the date of expiration. Failure to submit a written request within the specified time period shall cause forfeiture of the right to extension of the final approval. Failure to develop within the specified time limit shall cause forfeiture of the right to proceed under the final plan or plat and require re-submission of all materials and re-approval of the same. All dedications as contained on the final plat shall remain valid unless vacated in accordance with law. The city reserves the right to require changes to the approved final plan or plat as a condition to granting the extension. Decisions made on extensions may be appealed by the applicant to the city council under the provisions of chapter 7 of this title.

(c) Three years from the effective date of the ordinance codified in this Development Code, the city council may conduct annual hearings on concept PUD plans or final PUD plans approved prior to the effective date of the ordinance codified in this Development Code, which have never been undertaken, or which have not completed all work within the public right-of-way, to determine whether such plans have been abandoned by their applicants or whether to permit continuation of the original approved concept PUD plan or approved final PUD plans. Such decisions of the city council shall be recorded with the final PUD documents. In the event the city council exercises this section of the Code, new zoning shall be considered by the city.

(Code 1994, § 18.32.150; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-675. Amendments to approved final plans.

(a) Minor changes to an approved final plan may be authorized administratively by the community development director. Such changes may be authorized without additional public hearings and shall be reviewed on the basis of conformance with the city's comprehensive plan, Development Code, subdivision regulations and approved final plan. The community development director may refer the decision regarding proposed changes to an approved final plan to the planning commission and, if so referred, the decision by the planning commission shall constitute a final decision which may be appealed to the city council as provided in chapter 7 of this title.

(b) Major changes to an approved final plan may require that an amendment to the preliminary plan be approved and, if so, shall be treated as a new preliminary plan application under the provisions of section 24-669. Other major changes to an approved final plan shall be reviewed on the basis of conformance with the city's comprehensive plan, Development Code and subdivision regulations and must follow the same review process required for approval of final plans. Any changes approved in the final plan shall be recorded as amendments to the final plan in accordance with the procedures established for the filing of the original approved final plan.

(c) Major changes shall be defined as:

(1) A change in the land uses allowed under the preliminary PUD plan;

(2) A change in the character of the development which would result in a change in the outward appearance of the development as a whole, or increase impacts on the surrounding area;

(3) An increase in the impacts of traffic circulation and/or public utilities;

(4) A change which would result in the development no longer meeting the standards of this chapter under which the project was approved;

(5) An increase of greater than two percent in the approved gross leasable floor areas of commercial or industrial developments;

(6) An increase of greater than one percent in the approved number of residential dwelling units; or

(7) Removal of a recreational amenity.

(d) In order for the city to consider a proposed PUD amendment, the applicant shall provide written approval of the proposed amendment by not less than 75 percent of the owners of not less than 75 percent of the land area for PUD plans approved after the effective date of the ordinance codified in this Development Code. PUD plans approved prior to the effective date of the ordinance codified in this Development Code shall require approval by 100 percent of the property owners within the PUD. The applicant may submit at the time of initial final PUD approval, and the city may approve, a provision which permits less than 75 percent of the owners of not less than 75 percent of the land area in a PUD to approve of a proposed PUD amendment. In no event shall an amendment be permitted which has less than 51 percent of the owners of less than 51 percent of the land area giving written approval for the proposed amendment.

(e) Plans approved under a previous code shall be bound by all applicable code provisions and all conditions under which the plan was approved.

(Code 1994, § 18.32.160; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Secs. 24-676--24-693. Reserved.

~~CHAPTER 18.34~~ ARTICLE III. OVERLAY DISTRICTS

~~Article I - General Provisions~~

~~Article II - Floodplain Overlay District~~

~~Article III - General Improvement District Overlay~~

~~Article IV - Airport Overlay District~~

~~Article V - Character Overlay District~~

~~Article VI - Northeast Greeley Mercado District~~

~~Article VII - Redevelopment District Overlay~~

~~Article VIII - Entertainment District Overlay~~

~~Article I~~ Division 1. General Provisions

Sec. 24-694. Purpose and intent.

Overlay districts are zoning district classifications which encompass a defined geographic area and impose special standards and regulations which apply in addition to the underlying zoning standards and regulations.

(Code 1994, § 18.34.010; Ord. No. 27, 1998, § 1, 5-19-1998)

Secs. 24-695--24-716. Reserved.

~~Article II~~ Division 2. Floodplain Overlay District

Sec. 24-717. Purpose and intent.

(a) The Floodplain Overlay District is a zoning overlay for land within special flood hazard areas and, along with the floodplain development permit, creates an overlay of special standards and regulations to those zoning districts found to be within special flood hazard areas.

(b) It is the purpose of this chapter to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to critical facilities, infrastructure and other public facilities located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

(7) Ensure that potential buyers are notified that property is located in a flood hazard area.

(Code 1994, § 18.34.020; Ord. No. 3, 2012, § 1, 1-31-2012)

Sec. 24-718. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

100-year flood means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (one-percent-annual-chance flood). The terms "100-year flood" and "one-percent chance flood" are synonymous with the term "100-year flood."

100-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a

100-year flood.

500-year flood means a flood having a recurrence interval that has a two-tenths-percent chance of being equaled or exceeded during any given year (two-tenths-percent-chance annual flood).

Area of shallow flooding means a designated Zone AO or AH on a community's flood insurance rate map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable. Such flooding is characterized by ponding or sheet flow.

Base flood elevation (BFE) means the elevation shown on a FEMA flood insurance rate map that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.

Channelization means the artificial creation, enlargement or realignment of a stream channel.

Community, as used in article III of chapter 8 of this title, means any political subdivision in the state that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

Conditional letter of map revision (CLOMR) means FEMA's comment on a proposed project which does not revise an effective floodplain map, which would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, as specified in section 24-728, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DFIRM database means a database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital flood insurance rate map (DFIRM) means a FEMA digital floodplain map. These digital maps serve as regulatory floodplain maps for insurance and floodplain management purposes.

Elevated building means a nonbasement building built to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. The term "elevated building" also includes a building elevated by means of fill or solid-foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

Federal register means the official daily publication for rules, proposed rules and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation or runoff of surface waters from any source.

Flood boundary and floodway map (FBFM) means an official map, as amended from time to time, issued by the Federal Emergency Management Agency, where the boundaries of the base flood, floodway and 500-year flood have been delineated.

Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting or guiding flood flows along a particular waterway. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

Flood insurance rate map (FIRM) means an official map issued by the Federal Emergency Management Agency, as amended from time to time, where the boundaries of the base flood, 500-year flood, water surface elevations of the base flood and special flood hazard areas and the risk premium zones have been delineated.

Flood insurance study (FIS) means an official study by the Federal Emergency Management Agency, as

amended from time to time, examining, evaluating and determining flood hazards, corresponding water surface elevations and floodprofiles of the base flood.

Floodplain means an area which is adjacent to a stream or watercourse and which is subject to flooding as a result of the occurrence of an intermediate regional flood and which is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term "floodplain" includes, but is not limited to, mainstream floodplains, debris fan floodplains and dry wash channels and floodplains.

Floodplain administrator means the community official designated by title to administer and enforce the floodplain management regulations.

Floodplain development permit means a permit required before construction or development begins within any special flood hazard area (SFHA). Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this article.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term "floodplain management regulations" describes such federal, state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and/or nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway) means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of map revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

[GRAPHIC - Figure 24-1: Illustration of floodway, floodplain and flood fringe]

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood, such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

Letter of map revision (LOMR) means FEMA's official revision of an effective flood insurance rate map (FIRM), flood boundary and floodway map (FBFM) or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA).

Letter of map revision based on fill (LOMR-F) means FEMA's modification of the special flood hazard area (SFHA) shown on the flood insurance rate map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Levee means a manufactured structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a floodprotection system which consists of a levee or levees and associated structures such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, shall not be considered a building's lowest floor, provided that such enclosure shall not be built so as to render the structure in violation of the applicable design requirements of this chapter.

Material safety data sheet (MSDS) means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.

Mean sea level, for the purposes of the National Flood Insurance Program, means the North American Vertical Datum (NAVD) of 1988 or other datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

Mobile home means a detached, single-family housing unit that does not meet the definition of single-family dwelling or residence set forth in section 24-5 and which has all of the following characteristics:

(1) Designed for a long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities and which has plumbing and electrical connections provided for attachment to outside systems;

(2) Designed to be transported after fabrication, on its own wheels, or on a flatbed or other trailer or on detachable wheels;

(3) Arrives at the site where it is to be occupied as a complete unit and is ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports or jacks, underpinning, connections to utilities and the like;

(4) Exceeding eight feet in width and 32 feet in length, excluding towing gear and bumpers; and

(5) Is without motive power.

Mobile home park or community means a site or tract of land, at least eight acres in size, held under one ownership, which is suited for the placement of mobile homes.

Mobile home park or community, existing, means a mobile home park or community for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) are completed before the effective date of the ordinance codified in this Development Code.

Mobile home park or community, expansion, means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

National Flood Insurance Program (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.

No-rise certification means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a state-registered professional engineer.

Physical map revision (PMR) means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations and/or planimetric features.

Special flood hazard area (SFHA) means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year; i.e., the 100-year floodplain.

Start of construction shall include substantial improvement and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; the installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms; or the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. The term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local enforcement official and which are the minimum necessary to ensure safe living conditions; or

(2) Any alteration of an historic structure, provided that the structure's designation as an historic structure remains.

Threshold planning quantity (TPQ) means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the state that such facilities are subject to emergency planning requirements.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations, or structure or other development without the elevation certificate, other certifications or other evidence of compliance required in this chapter.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Code 1994, § 18.34.030; Ord. No. 3, 2012, § 1, 1-31-2012)

Sec. 24-719. General provisions.

(a) This chapter shall apply to all special flood hazard areas and areas removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F) within the jurisdiction of the city.

(b) The special flood hazard areas identified by FEMA and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter. These special flood hazard areas identified are the minimum area of applicability of this chapter and may be supplemented by studies designated and approved by the city. The floodplain administrator shall keep a copy of the flood insurance studies (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

(c) No structure or land shall hereafter be located, altered or have its use changed within the special flood hazard area without full compliance with the terms of this chapter. These regulations meet the minimum requirements as set forth by the state water conservation board and the National Flood Insurance Program.

(d) The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. On rare occasions, greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the special flood hazard area or uses permitted within such areas will be free from flooding or flood damages. This article shall not imply or create, and the city expressly disclaims, any liability on the part of the city or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Code 1994, § 18.34.040; Ord. No. 3, 2012, § 1, 1-31-2012)

Sec. 24-720. Floodplain development permits.

(a) A floodplain development permit shall be required before construction or development in a special flood hazard area to ensure conformance with the provisions of this chapter.

(b) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to the special flood hazard area. Additionally, the following information is required:

(1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a state-registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 24-722(2); and

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

(c) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities, such as sewer, gas, electrical and water

systems;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable; and

(9) The availability of alternative locations not subject to flooding or erosion damage for the proposed use.

(Code 1994, § 18.34.050; Ord. No. 3, 2012, § 1, 1-31-2012)

Sec. 24-721. General standards for flood hazard reduction.

In all special flood hazard areas, the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;

(6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and

(8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Code 1994, § 18.34.060; Ord. No. 3, 2012, § 1, 1-31-2012)

Sec. 24-722. Specific standards for flood hazard reduction.

In all special flood hazard areas where base flood elevation data has been provided as set forth in this article, the following provisions are required:

(1) *Residential construction*. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a state-registered professional engineer, architect or land surveyor. Such certification shall be submitted to the floodplain administrator.

(2) *Nonresidential construction*. With the exception of critical facilities, outlined in section 24-728, new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that, at one foot above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic

loads and effects of buoyancy. A state-registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this section. Such certification shall be maintained by the floodplain administrator.

(3) *Enclosures*. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a state-registered professional engineer or architect, or meet or exceed the following minimum criteria:

a. A minimum of two openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(4) *Manufactured homes*. All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above subsection shall be elevated so that either:

a. The lowest floor of the manufactured home is one foot above the base flood elevation; or

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and it is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(5) *Recreational vehicles*. All recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM shall either:

a. Be on the site for fewer than 180 consecutive days;

b. Be fully licensed and ready for highway use; or

c. Meet the permit requirements of section 24-720 and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect-type utilities and security devices and has no permanently attached additions.

(6) *Prior approved activities*. Any activity for which a floodplain development permit was issued by the city, or a CLOMR was issued by FEMA prior to the effective date of the ordinance from which this chapter is derived, may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this article if it meets such standards.

(Code 1994, § 18.34.070; Ord. No. 3, 2012, § 1, 1-31-2012)

Sec. 24-723. Standards for areas of shallow flooding (AO/AH Zones).

Located within special flood hazard areas are areas designated as shallow flooding. These areas have special

flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) *Residential construction*. All new construction and substantial improvements of residential structures must have the lowest floor, including basement, elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a state-registered professional engineer, architect or land surveyor. Such certification shall be submitted to the floodplain administrator.

(2) *Nonresidential construction*. With the exception of critical facilities, outlined in section 24-728, all new construction and substantial improvements of nonresidential structures, must have the lowest floor, including basement, elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified) or, together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A state-registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.

(Code 1994, § 18.34.080; Ord. No. 3, 2012, § 1, 1-31-2012)

Sec. 24-724. Floodways.

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The state has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of the term "floodway" in section 24-718). Located within special flood hazard areas are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado professional engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.

(2) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

(3) Under the provisions of 44 C.F.R., chapter 1, section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

(Code 1994, § 18.34.090; Ord. No. 3, 2012, § 1, 1-31-2012)

Sec. 24-725. Alteration of watercourse.

For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

(1) Channelization and flow-diversion projects shall appropriately consider issues of sediment transport, erosion, deposition and channel migration and properly mitigate potential problems through the project, as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

(2) Channelization and flow-diversion projects shall evaluate the residual 100-year floodplain.

(3) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable federal, state and local floodplain rules, regulations and ordinances.

(4) Any stream alteration activity shall be designed and sealed by a state-registered professional engineer or certified professional hydrologist.

(5) All activities within the regulatory floodplain shall meet all applicable federal, state and local floodplain requirements and regulations.

(6) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a state-registered professional engineer, that there is not a rise in the proposed conditions compared to existing conditions, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with section 24-724.

(7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

(Code 1994, § 18.34.100; Ord. No. 3, 2012, § 1, 1-31-2012)

Sec. 24-726. Properties removed from floodplain by fill.

A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F), with a lowest floor elevation placed below the base flood elevation with one foot of freeboard that existed prior to the placement of fill.

(Code 1994, § 18.34.110; Ord. No. 3, 2012, § 1, 1-31-2012)

Sec. 24-727. Standards for subdivision proposals.

(a) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be reasonably safe from flooding. If a subdivision or other development proposal is in a floodprone area, the proposal shall minimize flood damage.

(b) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet floodplain development permit requirements of section 24-720 and all applicable standards of this chapter.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions which are greater than 50 lots or five acres, whichever is lesser, if not already provided.

(d) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.

(Code 1994, § 18.34.120; Ord. No. 3, 2012, § 1, 1-31-2012)

Sec. 24-728. Standards for critical facilities.

A critical facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

(1) *Classification of critical facilities*. Critical facilities are classified under the following categories essential services; hazardous materials; at-risk populations; and vital to restoring normal services.

a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities and transportation lifelines. These facilities consist of:

1. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage and emergency operation centers);
2. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions and nonambulatory surgical structures);
3. Designated emergency shelters;
4. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio and other emergency warning systems, but excluding towers, poles, lines, cables and conduits);
5. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but excluding towers, poles, power lines, buried pipelines, transmission lines, distribution lines and service lines); and
6. Air transportation lifelines (airports, municipal and larger, helicopter pads and structures serving emergency functions and associated infrastructure, aviation control towers, air traffic control centers and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), nonpotable water treatment and distribution systems and hydroelectric power generating plants and related appurtenances. Public utility plant facilities may be exempted if it can be demonstrated, to the satisfaction of the city, that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this chapter, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the city upon request.

b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:

1. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
2. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
3. Refineries;
4. Hazardous waste storage and disposal sites; and
5. Aboveground gasoline or propane storage or sales centers.

Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a material safety data sheet (MSDS) on file for any chemicals stored or used in the workplace, and the chemicals are stored in quantities equal to or greater than the threshold planning quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R., § 302 (2010), also known as extremely hazardous substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the state department of health and environment. OSHA requirements for MSDS can be found in 29 C.F.R., § 1910 (2010). Specific exemptions to this category include:

6. Finished consumer products within retail centers and households containing hazardous

materials intended for household use and agricultural products intended for agricultural use.

7. Buildings and other structures containing hazardous materials for which it can be demonstrated by hazard assessment and certification by a qualified professional, to the satisfaction of the city, that a release of the subject hazardous material does not pose a major threat to the public.

8. Pharmaceutical sales, use, storage and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this section.

c. At-risk population facilities include medical care, congregate care and schools. These facilities consist of:

1. Elder care (nursing homes);

2. Congregate care serving 12 or more individuals (day care and assisted living); and

3. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children).

d. Facilities vital to restoring normal services including government operations. These facilities consist of:

1. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers); and

2. Essential structures for public colleges and universities (dormitories, offices and classrooms only).

These facilities may be exempted if it is demonstrated, to the satisfaction of the city, that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this chapter, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the city upon request.

(2) *Protection for critical facilities.* All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. Protection shall include one of the following:

a. Location outside the special flood hazard area; or

b. Elevation or floodproofing of the structure to at least two feet above the base flood elevation.

(3) *Ingress and egress for new critical facilities.* New critical facilities shall, when practicable as determined by the city, have continuous noninundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

(Code 1994, § 18.34.130; Ord. No. 3, 2012, § 1, 1-31-2012)

Secs. 24-729--24-754. Reserved.

~~Article III~~ Division 3. General Improvement District Overlay

Sec. 24-755. Purpose.

The purpose of this section is to provide standards for the use and development of land in the General Improvement District (GID) #1, which is bounded by 6th Street to the north, 11th Avenue to the west, 11th Street to the south and 7th Avenue to the east, excluding city Block 35.

(Code 1994, § 18.34.200; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-756. Application.

The provisions herein shall apply to all land located within the General Improvement District (GID) #1.

(Code 1994, § 18.34.210; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-757. District regulations.

Land in the General Improvement District #1 shall be exempt from the provisions of article VI of chapter 8 of this title for the applicable zoning district in which the property is located, and from the provisions of chapters 10 and 11 of this title.

(Code 1994, § 18.34.220; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999)

Secs. 24-758--24-782. Reserved.

~~Article IV~~ Division 4. Airport Overlay District

Sec. 24-783. Purpose.

The purpose of this chapter is to provide regulations restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Greeley-Weld County Airport by creating the appropriate zones and establishing the boundaries thereof. The use of land within this overlay district affects the safe and efficient operation of the airport and aircraft using the airport, and this chapter is intended to minimize risks to public safety and hazards to aircraft users and to protect the capacity of the airport to serve the area's air transportation needs, while allowing development that is compatible with the continued operation of the airport.

(Code 1994, § 18.34.300; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-784. Application.

The Airport Overlay District shall include those lands within the Greeley-Weld County Airport Zoning Map, prepared by Isbill Associates, Inc., Airport Consultants, dated July 1, 1984. The requirements of this chapter shall supplement those imposed on the same lands by any underlying zoning provision of this Development Code or any other ordinance of the city.

(Code 1994, § 18.34.310; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-785. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Airport means the Greeley-Weld County Airport, located in sections 2 and 3 and sections 26 and 35, T5N, R65W of the 6th P.M., Weld County, Colorado.

Airport elevation means the established elevation of the highest point on the usable landing area (4,690 feet above sea level).

Airport reference point means the point established as the geographic center of the airport landing area. The reference point at Greeley-Weld County Airport is a point which geographical coordinates are Latitude 40º26'8" North and Longitude 104º37'55" West.

Approach surface means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this section. In plan view, the perimeter of the approach surface coincides with the perimeter of the approach zone.

Conical surface means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

Hazard to air navigation means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height, for the purposes of determining the height limits in all zones set forth in this chapter and shown on the Greeley-Weld County Airport Zoning Map, shall be the mean sea level elevation unless otherwise specified.

Horizontal surface means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan view coincides with the perimeter of the horizontal zone (4,808 feet above sea level).

Larger than utility runway means a runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

Obstruction means any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in section 24-786.

Precision instrument runway means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS). It shall also mean a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Primary surface means a surface longitudinally centered on a runway extending 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

(1) 250 feet for runways having only visual approaches.

(2) 1,000 feet for precision instrument runways.

Runway means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure, for the purposes of this chapter, means an object, including a mobile object, constructed or installed by humans, including, but not limited to, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.

Transitional surface means those surfaces which extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

Utility runway means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures.

(Code 1994, § 18.34.320; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-786. Airport zone.

(a) In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Greeley-Weld County Airport. Such zones are shown on the Greeley-Weld County Airport Zoning Map. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

(1) *Utility runway visual approach zone*. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. The centerline is the continuation of the centerline of the runway.

(2) *Runway larger than utility visual approach zone*. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 from the primary surface. The centerline is the continuation of the centerline of the runway.

(3) *Precision instrument runway approach zone*. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a

width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. The centerline is a continuation of the centerline of the runway.

(4) *Transitional zone.* The transitional zone is the area beneath the transitional surface.

(5) *Horizontal zone*. The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(6) *Conical zone*. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

(b) Except as otherwise provided in this Development Code, no structure shall be erected, altered or maintained and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question, as follows:

(1) *Utility runway visual approach zone*. Slopes 20 feet outward for each foot upward beginning at the end and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended centerline.

(2) *Runway larger than utility visual approach zone*. Slope 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(3) *Precision instrument runway approach zone*. Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

(4) *Transitional zone*. Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface and extending to a height of 150 feet above the airport elevation which is 4,690 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

(5) *Horizontal zone*. Established at 150 feet above the airport elevation or at a height of 4,840 feet above mean sea level.

(6) *Conical zone*. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

(Code 1994, § 18.34.330; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-787. Use restriction.

Except as may otherwise be provided, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

(Code 1994, § 18.34.340; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-788. Nonconforming use.

(a) The regulations prescribed in this chapter shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance from which this chapter is derived, or otherwise interfere with the continuance of a nonconforming use, except as may otherwise be provided. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance codified in this Development Code.

(b) The owner of any existing nonconforming use or tree shall be required to permit the installation, operation and maintenance of such markers and lights as shall be deemed necessary by the Greeley-Weld County airport authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Greeley-Weld County airport authority.

(Code 1994, § 18.34.350; Ord. No. 27, 1998, § 1, 5-19-1998)

Secs. 24-789--24-814. Reserved.

~~Article V~~ Division 5. Character Overlay District

Sec. 24-815. Purpose.

The purpose of this section is to provide the standards for the creation of Character Overlay Districts which are initiated by property owners within an area of the city. The intent of Character Overlay Districts is to provide an overlay district established for the purposes of maintaining and preserving the attributes which make up the character of a particular and definable area within the city. Character overlay districts are not intended to substitute for or take the place of an Historic Preservation District.

(Code 1994, § 18.34.400; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-816. Application.

These provisions shall apply to areas within the city in which a Character Overlay District and related standards are adopted by the city.

(Code 1994, § 18.34.410; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-817. General provisions.

(a) The creation of a Character Overlay District shall require that at least 51 percent of the property owners and at least 51 percent of the land area within the proposed district boundaries agree to participate in the creation of a Character Overlay District.

(b) The provisions of a Character Overlay District shall apply to all property, whether developed or vacant, and all uses located within the district boundaries and shall be applicable at the time of a change of use, new construction or exterior remodeling, or as otherwise defined in the Character Overlay District.

(c) The Character Overlay District standards provided for herein shall serve as minimum standards for all Character Overlay Districts. The property owners within an area proposed as a Character Overlay District may include additional standards to further accomplish the intent of a particular Character Overlay District.

(d) Variances to the provisions of a Character Overlay District shall be processed as provided in chapter 6 of this title except that in addition to the provisions in chapter 6 of this title, all property owners within the Character Overlay District shall be notified in writing of a proposed variance as provided in article II of chapter 5 of this title.

(e) A Character Overlay District shall not be used to permit that which would otherwise be considered unlawful under this Development Code and shall not reduce standards for such things as zoning district requirements or parking, nor shall a Character Overlay District be used to control or prevent demolition of existing buildings or structures.

(Code 1994, § 18.34.420; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-818. Standards.

The following standards, at a minimum, shall be required of all Character Overlay Districts:

(1) *District boundaries*.

a. The district shall be delineated as a definable geographic area which has similarity in character. For the purposes of this chapter the term "character" shall be defined as the sum or composition of a building's, group of buildings' or area's attributes which serve to distinguish its appearance and establish its visual image. Attributes that may contribute to character include, but are not limited to, size, shape and height of buildings, building materials, architectural style, streets, setbacks, schools and natural features such as trees, lakes, streams and parks.

b. District boundaries shall generally be established to follow lot lines or be parallel or perpendicular thereto, or to follow along streets, alleys, rights-of-way or watercourses.

c. District boundaries shall generally not split or be less than a block face.

(2) *Area, yard, coverage and height standards*. Minimum lot area, yard, coverage and building height requirements shall be in conformance with all applicable requirements of this title.

(3) *Other standards*. The following areas shall also be addressed in the Character Overlay District if applicable to the particular district:

a. Architectural design, including style, exterior materials, scale and mass of new construction and additions.

b. Lighting, including height, style and placement of fixtures and amount of lighting.

c. Off-street parking, including location and screening of parking.

d. Accessory structures.

e. Sidewalks.

f. Landscaping and fencing.

g. Other areas, including the location and screening of trash receptacles and service areas.

(4) *Options*. Development standard options, applicable to the zoning district in which the Character Overlay District is situated may be proposed as part of the Character Overlay District standards.

(5) *Modifications to the Character Overlay District*. Provisions shall be made for how future modifications to the Character Overlay District will be made. Such provisions shall address the process for making changes, as well as the extent of approval required of property owners within the district.

(Code 1994, § 18.34.430; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-819. Applications.

(a) Responsibility for initiating a Character Overlay District shall be with the property owners of the area proposed as a Character Overlay District. The property owners shall define the proposed boundaries of the Character Overlay District and obtain written approval of all property owners which are in agreement with creation of the district as required under subsection (b) of this section.

(b) All Character Overlay District applications shall contain the following information:

(1) Proposed name of Character Overlay District.

(2) Proposed geographic boundaries of Character Overlay District, delineated on a map drawn to scale.

(3) Petition requesting the formation of a Character Overlay District, signed by at least 51 percent of the property owners and at least 51 percent of the land area and including a summary statement identifying the percent of property owners and the percent of land area represented by the property owners who have signed the petition. A petition format is available from the community development department. Evidence that all property owners within the proposed Character Overlay District were contacted shall also be provided on the petition by those property owners opposed to creation of the Character Overlay

District.

(4) Written description of all development standards proposed for the Character Overlay District.

(5) Narrative providing the basis and rationale for the geographic boundaries and development standards. Photographs may be provided along with the narrative.

(6) Such additional information as may be required by the community development director in order to ensure a complete and comprehensive review of the proposed Character Overlay District.

(Code 1994, § 18.34.440; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-820. Review.

(a) Upon determination by the community development director that the Character Overlay District submittal is complete, the director shall seek comments on the Character Overlay District from the appropriate city departments and other interested reviewing agencies and from the historic preservation commission regarding the proposed Character Overlay District's eligibility as an historic preservation district.

(b) All reviewing agencies and offices will have two weeks from the date of distribution of the application to make any objections or comments to the community development director. This time period may be extended to the minimum amount of time needed to complete the review. The historic preservation commission shall have 45 days in which to provide written comments to the director, unless otherwise extended, due to the complexity of the proposed district. The director shall include a summary of all comments received on the Character Overlay District application along with the staff recommendation in a report which shall be presented to the planning commission for consideration of the district.

(c) The community development director shall schedule a public hearing on the matter before the planning commission on the next open agenda. Notice of such public hearing shall be given as provided for in article II of chapter 5 of this title.

(d) In making a recommendation on a Character Overlay District application, the planning commission shall consider any comments received from agencies or offices receiving copies of the application, public comments and the staff recommendation. The commission shall consider if the proposed Character Overlay District meets the following standards in recommending to approve, approve with conditions, deny or table the application for future consideration:

(1) All requirements in section 24-818 for Character Overlay District have been met;

(2) The proposed Character Overlay District complies with the intent of this chapter; and

(3) The boundaries of the Character Overlay District are found to be logical.

(e) After consideration by the planning commission, the community development director shall schedule a public hearing on the matter before the city council on the next open agenda. Notice of such public hearing shall be given as provided for in article II of chapter 5 of this title.

(f) In making a decision on a Character Overlay District application, the city council shall consider any comments received from agencies or offices receiving copies of the application, public comments, planning commission recommendation and the staff recommendation. The council shall consider if the proposed Character Overlay District meets the standards in subsection (d) of this section in voting to approve, approve with conditions, deny or table the application for future consideration.

(g) The decision by the city council on a Character Overlay District shall be considered final.

(h) After approval of a Character Overlay District, the community development director shall cause the zoning map to be updated, showing the Character Overlay District as an overlay district to the zoning map. The director shall also provide written notice of approval of the district and the district development standards to all property owners within the boundaries of the Character Overlay District and shall cause a copy of the legal description and district standards to be recorded in the county clerk and recorder's office.

(i) Removal of a Character Overlay District shall be done using the same procedure that created the district, as provided herein.

(Code 1994, § 18.34.450; Ord. No. 27, 1998, § 1, 5-19-1998)

Secs. 24-821--24-848. Reserved.

~~Article VI~~ Division 6. Northeast Greeley Mercado District

Sec. 24-849. Northeast Greeley Mercado District Advisory Board establishment.

There is hereby established a Northeast Greeley Mercado District Advisory Board, the purpose of which is to review and comment to other city boards and the city council concerning area development proposals and related matters as it relates to the objectives of the voluntary architectural and development design guidelines as described in the Mercado del Norte Plan, dated May 2001.

(Code 1994, § 18.34.500; Ord. No. 51, 2002, § 1, 9-3-2002; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-850. Members.

The Northeast Greeley Mercado District Advisory Board shall be comprised of seven members as provided by this section. Three members shall represent residential landowners; three members shall represent business interests; and one member shall represent at-large interests of the area. A majority of the members shall be landowners of property within the designated Mercado District boundaries.

(Code 1994, § 18.34.510; Ord. No. 51, 2002, § 1, 9-3-2002; Ord. No. 70, 2002, § 1, 12-17-2002; Ord. No. 22, 2010, § 1, 6-15-2010)

Secs. 24-851--24-878. Reserved.

~~Article VII~~ Division 7. Redevelopment District Overlay

Sec. 24-879. Purpose and intent.

The purpose of this section is to provide alternative standards for the use and development of land and to provide additional discretion via the application of alternative compliance within the Redevelopment District, as defined in section 24-881. It is not the intent of the alternative compliance component to modify or reduce requirements of the building or zoning codes, but to provide equivalent standards in a creative way that continue to meet the intent of this Development Code.

(Code 1994, § 18.34.600; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-880. Application.

The provisions herein shall apply to all land located within the Redevelopment District, as defined in section 24-881.

(Code 1994, § 18.34.610; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-881. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cluster subdivision or development means a form of development in which the lot sizes are reduced and the resulting land area is devoted to common open space.

Dwelling or residence, multiple-family, means a building, site or a portion thereof which contains three or more dwelling units, not including hotels, motels, fraternities, sororities and similar group quarters.

Mixed-use means a building or structure that contains two or more different uses, one of which shall be residential.

Redevelopment District means all land located within the boundaries of the urban renewal area of the city, as it may be amended from time to time by the city council.

(Code 1994, § 18.34.620; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-882. Cash-in-lieu.

Properties within the Redevelopment District shall be eligible for the cash-in-lieu program for landscaping as described in section 24-1144(9)f.

(Code 1994, § 18.34.640; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-883. Redevelopment District performance options.

Option # and Description	*Conditions Required to Use this Option (all conditions must be met)*
Open Space: Reduced--for commercial, cluster, multifamily and mixed-use development.	The amount of required open space in a commercial, cluster, multifamily or mixed-use development may be reduced by up to 2 percent of the total site for every recreational amenity provided as listed in section 24-1061(e)(4)

(Code 1994, § 18.34.650; Ord. No. 22, 2010, § 1, 6-15-2010)

Secs. 24-884--24-914. Reserved.

~~Article VIII~~ Division 8. Entertainment District Overlay

Sec. 24-915. Purpose and intent.

The purpose of this article is to authorize the creation of an Entertainment District within which, through its local licensing authority, the city may allow the establishment of common consumption areas as provided for in C.R.S § 12-47-301(11).

(Code 1994, § 18.34.700; Ord. No. 7, 2012, § 1, 3-6-2012; Ord. No. 2, 2013, § 1, 2-19-2013)

Sec. 24-916. Application.

The provisions herein shall apply to all land located within the Entertainment District, as defined in section 24-917.

(Code 1994, § 18.34.710; Ord. No. 7, 2012, § 1, 3-6-2012; Ord. No. 2, 2013, § 1, 2-19-2013)

Sec. 24-917. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Common consumption area means an area designed as a common area located within a designated Entertainment District and approved by the local licensing authority that uses physical barriers to close the areas to motor vehicle traffic and limit pedestrian access.

Downtown Entertainment District means that area contained within the south curb flow line of 7th Street, the west curb flow line of 8th Avenue, the north curb flow line of 10th Street and the east curb flow line of 9th Avenue.

Entertainment District means an area within the city that is designated as an Entertainment District of a size no more than 100 acres and containing at least 20,000 square feet of premises licensed as a tavern, hotel and restaurant, brew pub or vintner's restaurant at the time the district is created.

Promotional association means an association that is incorporated within the state that organizes and promotes entertainment activities within a common consumption area and is organized or authorized by two or more people who own or lease property within an Entertainment District.

(Code 1994, § 18.34.720; Ord. No. 7, 2012, § 1, 3-6-2012; Ord. No. 2, 2013, § 1, 2-19-2013)

Sec. 24-918. General provisions.

(a) Entertainment Districts may be established by the city from time to time as determined to be in the best interest of the public and the specific geographic area to be served, subject to demonstration that the proposed district is consistent with the definition and purpose of an Entertainment District contained in this article.

(b) Common consumption areas shall be approved by the local licensing authority, consistent with its authority provided in chapter 13 of title 8 of this Code, provided the local licensing authority finds that, in addition to finding that the applicable requirements of chapter 13 of title 8 of this Code have been met, all of the following conditions are met:

(1) The size of the common consumption area is contained wholly within an Entertainment District as set forth in this article;

(2) The area is clearly delineated using physical barriers to close the area to motor vehicle traffic and limit pedestrian access;

(3) The promotional association governing the common consumption area has obtained and maintained at all times a properly endorsed general liability and liquor liability insurance policy acceptable to the local licensing authority of at least $1,000,000.00 per incident and names the city as an additional insured;

(4) The promotional association has provided security deemed sufficient by the local licensing authority to ensure compliance with the liquor code and limit safety risks to the neighborhood and the general public patronizing the Entertainment District. All security within the common consumption area or its attached licensed premises shall complete the state server and seller training program and be approved by the chief of police;

(5) The promotional association has met the conditions further listed under section 8-492.

(Code 1994, § 18.34.730; Ord. No. 7, 2012, § 1, 3-6-2012; Ord. No. 2, 2013, § 1, 2-19-2013)

Sec. 24-919. Downtown Entertainment District.

(a) There is hereby established and designated an Entertainment District known as the Downtown Entertainment District containing that area within the south curb flow line of 7th Street, the west curb flow line of 8th Avenue, the north curb flow line of 10th Street and the east curb flow line of 9th Avenue. Said district has been determined to meet the size and licensed premises descriptions consistent with the definition of Entertainment District in this article.

(b) In addition to compliance with all aspects of this article, any promotional association created to manage common consumption areas within the Downtown Entertainment District shall include an official representative of the downtown development authority as a director of any promotional associations which may be authorized therein by the local licensing authority.

(Code 1994, § 18.34.735; Ord. No. 7, 2012, § 1, 3-6-2012; Ord. No. 2, 2013, § 1, 2-19-2013)

Secs. 24-920--24-941. Reserved.

~~CHAPTER 18.36~~ ARTICLE IV. HISTORIC PRESERVATION

Sec. 24-942. Purpose and intent.

The intent of this article is to:

(1) Designate, preserve, protect, enhance and perpetuate those sites, structures, objects and districts which reflect outstanding elements of the city's cultural, artistic, social, ethnic, economic, political, architectural, historic, technological, institutional or other heritage; and also establish a method to draw a reasonable balance between the protection of private property rights and the public's interest in preserving the city's unique historic character by creating a quasi-judicial commission to review and approve or deny any proposed demolition of, moving-of or alteration to properties of historic value. In cases of historic districts or non-owner-nominated properties for historic designation, and changes to an existing district designation plan, decisions of the commission are forwarded to the city council for approval under subsection 24-948(5). All other actions by the commission are considered final actions

and may be appealed to the city council under section 24-950. The findings and determinations of the commission may be reviewed, modified, affirmed or reversed by a simple majority vote of the elected members of the city council, as provided in section 24-950.

(2) Foster civic pride in the beauty and accomplishments of the past.

(3) Stabilize or improve aesthetic and economic vitality and values of such sites, neighborhoods, structures, objects and districts.

(4) Protect and enhance the city's attraction to tourists and visitors, increase the quality of life for the citizens and enhance future economic development.

(5) Promote the use of outstanding historic or architectural sites, structures, objects and districts for the education, stimulation and welfare of the people of the city.

(6) Promote good urban design.

(7) Promote and encourage continued private ownership and utilization of such sites, structures, objects or districts.

(8) Integrate historic preservation with the city's comprehensive development plan.

(Ord. No. 17, 2019, § 18.36.010, 4-2-2019)

Sec. 24-943. Applicability of Code.

This section applies to the following properties:

(1) Individually designated properties are subject to the most current version of the historic preservation general design review guideline.

(2) Individually designated properties contributing in a Greeley Historic Register Historic District are subject first to the district designation plan, then to the historic preservation general design review guideline.

(3) Nondesignated properties contributing in a Greeley Historic Register Historic District are subject to the district designation plan.

(4) Noncontributing properties located in an Historic District are subject to portions of the district designation plan applicable to noncontributing properties, unless specifically excluded under the plan.

(5) All pertinent municipal zoning and building codes are applicable for all properties.

(Ord. No. 17, 2019, § 18.36.020, 4-2-2019)

Sec. 24-944. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any act or process requiring a building permit, moving permit, demolition permit or sign permit for the reconstruction, moving, improvement or demolition of any designated property or district; or any other action in which a review by either the historic preservation commission or the historic preservation specialist is necessary under this article and/or the district designation plan and in accordance with the definitions of major and minor alterations, for the purposes of this article.

Area means the geographical region or the extent of land identified with one or more areas of significance as set forth in the criteria for designation at section 24-947 and may be nominated for historic designation on the local register.

Burden of proof shall be a preponderance of the evidence.

Certificate of approval means a certificate issued by the city authorizing the construction, alteration or demolition of property and improvements designated under this article.

Commission means the historic preservation commission as created in section 24-945.

Contributing buildings, sites, structures and objects, for the purposes of this article, means historic properties

within the proposed or designated district and includes individually designated properties and nondesignated properties that contribute to the historic district by their shared and unique architectural, historic or geographical characteristics.

Days mean calendar days, unless otherwise noted.

Demolition, for the purposes of this article, means any act or process which destroys, in part or in whole, any designated property or property located within a designated historic district.

Demolition by neglect means neglect in maintenance, repair or security of a site, building or structure, resulting in any of the following conditions:

(1) The deterioration of exterior walls or other vertical supports or a portion thereof;

(2) The deterioration of roofs or other horizontal members;

(3) The deterioration of exterior chimneys;

(4) The deterioration of exterior plaster or mortar;

(5) The ineffective weatherproofing of exterior walls, roofs and foundations, including broken windows and doors; or

(6) The serious deterioration of any documented exterior architectural feature or significant landscape feature which, in the judgment of the commission, produces a detrimental effect upon the character of the district.

Designated property means an historic property individually listed on the city's historic register through the procedural requirements in section 24-948 and which meets the criteria set forth in section 24-947.

District designation plan means a plan generated by the historic district residents and/or owners for commission use in reviewing certificate of approval applications. This plan shall incorporate elements such as, but not limited to, building height, setback, building envelope and new construction.

Emergency means an unexpected and sudden event that must be dealt with urgently in order to stabilize or protect a structure.

Historic district means a geographically definable area with a concentration of buildings, structures, sites, spaces or objects unified by past events, physical development, design, setting, materials, workmanship, sense of cohesiveness or related historical and aesthetic associations, that is recognized through listing in a local, state or national landmarks register.

Historic property means the public and private resources in the city, including buildings, homes, replicas, structures, objects, properties, parks, land features, trees and sites, that have importance in the history, architecture, archeology or culture of the city, state or nation, as determined by the commission.

Maintenance means measures to protect and stabilize a property, including ongoing upkeep, protection and repair of historic materials and features. Maintenance shall include the limited and responsive upgrading of mechanical, electrical and plumbing systems and other code-required work to make a property safe and functional.

Major alteration means a modification to a structure that has potential to significantly alter the character of the property and includes, but is not limited to, window replacement; building addition; porch enclosure; reconstruction of a portion of the primary building; addition of dormers or other alteration to the roofline; reconstruction of features on a building; material replacement with a different material (e.g., siding); alteration or replacement of a character-defining feature; demolition; relocation; and new construction. Major alteration includes any modification that is not considered maintenance or a minor alteration.

Minor alteration, for the purposes of this article, means a modification to a structure that does not significantly alter the character of the property and includes, but is not limited to, replacement of roof; installation and repair or replacement of gutters if exterior trim elements are not altered; reconstruction and/or repair of portions of secondary structures; addition or replacement of storm windows and doors to existing windows and doors; repair or replacement of architectural elements with the same material, design, size, color and texture; replacement of less than 50 percent of a porch railing; replacement of original material with the same material (e.g., replacing a portion

of wood siding with wood siding of the same size, profile and type); removal of nonoriginal material, such as vinyl, aluminum, etc.; adding awnings; repainting masonry; and signs requiring a permit.

Moving or *relocating* means lifting a building, structure or object from the existing location and taking it to a new location.

Nomination means the process of filing an application for designation.

Noncontributing buildings, sites and structures means those properties which do not share the architectural, historical or geographical characteristics of the historic district except for their physical presence within the district. These properties do not contribute to the historic district's characteristics. New construction shall be considered a noncontributing building or structure.

Preservation plan means the officially adopted document which provides information about local history and preservation programs, articulates city preservation goals and objectives, and guides decisions and actions of the commission and staff.

Public comment means any notation, observation, remark or recommendation made during a hearing by a member of the public in response to a proposed commission action.

Register means a locally maintained list of properties designated as historic.

Replica means any reconstruction or recreation of any buildings, structures or other resources deemed to be of historic importance by the commission.

Secretary of the Interior's Standards means the Secretary of the Interior's Standards for the Treatment of Historic Properties, in 36 CFR pt. 68, which governs alterations to historic properties listed in the National Register of Historic Places. The standards, which pertain to the exterior and interior of historic buildings, deal with design, methods of construction and materials and define preservation, rehabilitation, restoration and reconstruction as treatments. This reference shall always refer to the current standards and definitions, as amended.

Streetscaping means rehabilitation, preservation and beautification of those exterior elements of a designated property which are visible from a street, including elements and landscaping within a front or street side setback and/or the public right-of-way.

Structure means anything constructed or erected on or in the ground, the use of which requires a more or less permanent location on or in the ground, including, but not limited to, walls, retaining walls, fences, parking lots, parking slabs and oil and gas production facilities.

Unreasonable economic hardship means severe economic impact to the property as determined on a case-by-case basis by the commission.

Yard, front or street side, for the purposes of this article, means that portion of a lot between the primary structure and right-of-way. A yard may contain more land area than a setback area.

(Ord. No. 17, 2019, § 18.36.030, 4-2-2019)

Sec. 24-945. Historic preservation commission; establishment, powers and duties.

(a) *Commission established*. There is hereby created an historic preservation commission, which shall have principal responsibility for matters of historic preservation.

(b) *Membership*. The commission shall consist of seven members providing a balanced, community-wide representation, and all members shall have an interest in historic preservation. The commission shall be composed of members with the following areas of representation: one architect, landscape architect, design professional and/or licensed contractor or building tradesperson; one historian, archaeologist and/or architectural historian; one licensed real estate broker; and four citizens at-large.

(c) *Use of alternates in designations.*

(1) When a conflict of interest occurs with one or more commissioners associated with the proposed designation of an historic property or district, the use of an alternate is optional to replace the conflicted members to secure a quorum. Alternates shall be selected from a pool of former commission members who meet the minimum city board and commission standards, except for term limits, at the time of the

temporary appointment, and who shall vote on the proposed designation. Best efforts will be made to replace conflicted members; however, if a quorum of five is attainable, the designation hearing may proceed.

(2) A pool of alternates shall be appointed by the city council. The total number of potential alternates shall be between two and 12 people. The selection of the alternates to fill the role of any conflicted commission members shall be at random and in advance of the historic designation hearing. The historic preservation specialist shall draw names through a random process; e.g., draw names from a hat. The selection shall be done during a special session or meeting of the commission where public notice has been given.

(3) The alternate may only act upon the matter with which a commission member has a conflict.

(4) If a quorum is unattainable through the use of alternates in designations as provided for in this section, then the historic designation hearing will be directly heard before the city council by a special hearing for a designation vote, using the same guidelines as mandated by the commission under this article, except that such city council vote shall be carried by a simple majority of the quorum present.

(d) *Powers and duties*. The commission shall act in a quasi-judicial manner and shall draw a reasonable balance between the protection of private property rights and the public's interest in preserving the city's unique historic character. It shall have the following powers, duties and rulemaking authority, subject to approval by the city council under this article:

(1) Recommend criteria for approval by the city council by which the commission shall conduct its review of historic properties and review proposals to alter, demolish or move designated properties. The commission shall recommend or designate those properties or districts which meet the applicable criteria by placing them on the local register under the rules and procedures under this article.

(2) Oversee surveys that are undertaken for the purpose of creating an inventory of potential historic properties and areas. Such inventory is to document existing structures in older areas of the community and assess the potential for historic designation, and for the purpose of informing landowners of such properties that such properties may meet the criteria for designation.

(3) Review and make a decision on any application for altering, moving or demolishing any designated properties.

(4) Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, including nomination to the National Register of Historic Places.

(5) Develop and assist in public education programs, such as walking tours, brochures, a marker program for historic properties, lectures and conferences.

(6) Advise the city council on matters related to preserving the historic character of the city.

(7) Assist in pursuing financial assistance for preservation-related programs.

(8) Establish such rules, regulations and procedures relating to designation, nomination, preservation, relocation, demolition, exemptions, economic incentives, appeal of decisions or other processes relating to the powers and duties of the commission.

(9) Recommend to the city council removal of properties from the register for reasons the commission deems appropriate, including, but not limited to, acts of God, undue hardship and public health and safety concerns.

(10) Cause to be issued by the appropriate city department such municipal citations as are appropriate for enforcement of this article.

(Ord. No. 17, 2019, § 18.36.040, 4-2-2019)

Sec. 24-946. Historic preservation specialist.

(a) *Appointment of historic preservation specialist*. There shall be an historic preservation specialist appointed by the city manager (specialist), to serve as a resource to the commission. The specialist shall not be a member of the commission.

(b) *Role*. The role of the specialist as the staff liaison shall include responsibilities related to administration of this Development Code and advancing historic preservation goals adopted by the city. These shall include items designated below and as found elsewhere in this article.

(c) *Duties and responsibilities*.

(1) Minor alterations. The specialist is authorized to review applications for minor alterations, issue certificates of approval for properties designated on the city historic register and for those properties included in Greeley Historic Register-Designated Historic Districts, and issue certificates of approval that meet pertinent design guidelines and the Secretary of the Interior's Standards, as defined in section 24-944, and have a minimal impact on the integrity of the historic structure or district. If the specialist does not issue the certificate of approval for a minor alteration, the applicant may appeal the decision to the commission. The specialist may refer any minor alteration application to the commission for review.

(2) Building permit fee refund applications. The specialist is authorized to review and approve or deny applications for building permit fee refunds, in accordance with policies established by the commission, as established in section 24-951.

(3) Administrative review of undesignated properties 40 years old or older outside of a designated historic district.

a. When application for a permit is made with the city that would make significant alterations to the streetscape view of the exterior of or demolition of any structure or building that is 40 years or older at the time of such request, the application shall be forwarded to and reviewed by the specialist.

b. Significant alterations shall include:

1. Siding: including new stucco or similar exterior material applied over original or other existing siding materials, including, but not limited to, wood, metal or brick exterior; removal of all or a portion of the original or existing siding and replaced with new siding.

2. Fenestration: window or door openings enlarged or reduced.

3. Roof: changes of roofline or structure.

4. Porches: changes to porch visible from streetscape.

5. Additions.

6. Accessory structures.

7. Any building modification as viewed from any public street.

c. The specialist shall have ten business days to review and comment on applications that meet the criteria set forth above. The ten business days shall commence on the day the permit application is submitted to the building inspection office. Should ten business days expire without written comment from the specialist, then the specialist shall not be allowed to comment on the permit.

1. The specialist shall review the property and, if necessary, research the historical significance of the building for which a permit has been applied.

2. If the specialist determines that a building currently holds no historical, architectural and/or geographical significance, then such a notice shall be placed with the permit that will be issued through the building inspection office.

3. If the specialist determines that potential significance exists, the specialist shall make the information available to the groups named in section 24-948(4)a.

4. The specialist shall issue comments and/or suggestions to the building inspection office. These comments shall recognize the historical, architectural and/or geographical significance or lack thereof concerning the building for which a permit has been requested. The specialist may also make suggestions of ways to make the changes more compatible or acceptable with the age or type of the structure.

d. Nonsignificant alterations shall be excluded from review by the specialist. Nonsignificant

alterations shall include:

1. Fenestration: replacement of windows or doors in original openings.
2. Roof: new shingles or deck without changing original roofline.
3 Patios: additions of back patios or decks.
4. Landscaping.
5. Signs.

e. Whenever an application for development includes alterations or demolition described in this section and is required to go through the community development department, the community development department will use its best efforts to inform the applicant of the ramifications that this section will have on the application.

f. If a building must be demolished because it poses a threat to the health, safety or welfare of the citizens of the city, this section shall not apply.

(Ord. No. 17, 2019, § 18.36.050, 4-2-2019)

Sec. 24-947. Criteria for designation.

(a) *Criteria for individual, owner-nominated properties.* A property shall be eligible for designation for historic preservation and eligible for economic incentives if it meets one or more criteria in one or more of the following categories:

(1) *Historical significance*. The site, building or property:

a. Has character, interest and integrity and reflects the heritage and cultural development of the city, state or nation.

b. Is associated with an important historical event.

c. Is associated with an important individual or group who contributed in a significant way to the political, social and/or cultural life of the community.

(2) *Architectural significance*. The property:

a. Characterizes an architectural style or type associated with a particular era and/or ethnic group.

b. Is identified with a particular architect, master builder or craftsman.

c. Is architecturally unique or innovative.

d. Has a strong or unique relationship to other areas potentially eligible for preservation because of architectural significance.

e. Has visual symbolic meaning or appeal for the community.

(3) *Geographical significance*. The property:

a. Has proximity and a strong connection or link to an area, site, structure or object significant in the history or development of the city, state or nation.

b. Is a visual feature identifying an area or neighborhood or consists of buildings, homes, replicas, structures, objects, properties, parks, land features, trees and sites historically or geographically associated with an area.

(b) *Criteria for individual, non-owner-nominated properties*. In addition to meeting criteria requirements in this section, non-owner nominations shall be reviewed under stricter protections. The nominated property must demonstrate that it possesses the characteristics of compelling historic importance to the entire community, including at least one of the following criteria:

(1) Unusual or uncommon significance that the structure's potential demolition or major alteration would diminish the character and sense of place in the community of the city; or

(2) Superior or outstanding examples of architectural, historical or geographical significance criteria

outlined in the criteria for designation in this section. The term "superior" means excellence of its kind, and the term "outstanding" means marked by eminence and distinction.

(c) *Criteria for district designation*. A district shall be designated if the city council determines that the proposed district meets the definition of an historic district pursuant to this section and meets one or more of the following criteria:

(1) Is an area which exemplifies or reflects the particular cultural, political, economic or social history of the community.

(2) Is an area identified with historical personages or groups or which represents important events in national, state or local history.

(3) Is an area which embodies distinguishing characteristics of an architectural type or style inherently valuable for the study of a period, method of construction or indigenous materials of craftsmanship.

(4) Is an area which is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized.

(5) Is an area which, due to its unique location or singular characteristics, represents established and familiar visual features of the neighborhood, community or city.

(d) *Integrity criteria*. All properties and districts shall be evaluated for their physical integrity using the following criteria, as defined by the National Park Service in the current version of the publication How to Apply the National Register Criteria for Evaluation:

(1) *Location*. The place where the historic property was constructed or the place where the historic event occurred.

(2) *Design*. The combination of elements that create the form, plan, space, structure and style of a property.

(3) *Setting*. The physical environment of an historic property.

(4) *Materials*. The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form an historic property.

(5) *Workmanship*. The physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.

(6) *Feeling*. A property's expression of the aesthetic or historic sense of a particular period of time.

(7) *Association*. The direct link between an important historic event or person and an historic property.

(Ord. No. 17, 2019, § 18.36.060, 4-2-2019)

Sec. 24-948. Designation.

The following provisions shall apply to the nomination of individual properties and districts:

(1) A property or district may only be nominated once in any 12-month period, unless such nomination is uncontested.

(2) Submittal of an incomplete application will result in a delay in the nomination and public hearing process.

(3) Owner-nominated properties:

a. *Owner nominations*. Any owner may nominate his area, building, house, replica, structure, object, property, park, land feature, tree and site for designation on the local register, subject to all the rules and procedures of this article.

b. *Procedure*.

1. The owner shall submit a complete application, as determined by historic preservation staff. For the purposes of this article, a complete nomination application will include:

(i) Nomination form with ownership information, including address of record, signatures of all owners of record or legally authorized representative of the owner, legal description or indication of an attached legal description.

(ii) Historic building inventory form, with the following required minimum information completed: nominated property address, owner, mailing address, telephone number, legal description, historic use, present use, date of construction (estimate), original owner (if possible) and significance (determined in consultation with the specialist if necessary).

(iii) Current photos of the front and sides of the property, and of the rear to the extent possible. If the photos are digital, they should be at least 300 dpi. All photos should be provided with a photo log indicating the name of the photographer, date of the photo, view (front, rear, yard, etc.), direction (looking north, etc.) and the address of the subject property.

(iv) Application fee, payable to the city. The fee may be waived under certain circumstances. If the owner has a financial hardship, the owner may submit a request for a reduction or waiver of the nomination fee, explaining the need for the waiver or reduction. The community development director shall make determinations on fee waiver requests.

2. Public hearing procedure.

(i) Quorum required. At least five members of the commission must be present at a hearing in order to establish a quorum. If a quorum is missing due to attendance, then the chair of the commission may set a new date for a special hearing, or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date. If a quorum is missing due to conflicts of interest, then the process in section 24-945(c) shall be used.

(ii) The hearing shall be electronically recorded and minutes prepared. Hearings shall be of ample length to allow all concerned persons to address the commission.

(iii) Commission action/decision. After the commission has heard all interested parties and relevant evidence, the commission may approve the designation if it casts votes in favor of historic designation by a two-thirds majority of the quorum present. The commission decision is final unless appealed to city council, pursuant to section 24-950.

(4) Non-owner-nominated properties.

a. *Non-owner nominations*. The planning commission, city urban renewal authority, downtown development authority or any legally recognized preservation organization, including nonprofit historic preservation groups, may nominate an area, building, house, replica, structure, object, property, park, land feature, tree or site for designation on the local register, subject to all the rules and procedures of this article.

b. *Procedure*. For a non-owner application for designation, all paperwork for the application must be completed pursuant to the rules promulgated by the commission. Non-owner nominations must be approved by the city council pursuant to the procedures set forth in this subsection.

1. For the purposes of this article, a complete nomination application will include:

(i) Nomination form, with ownership information including address of record, signature of an authorized official of the applicant organization and legal description or indication of attached legal description.

(ii) Historic building inventory form, with the following required minimum information completed: nominated property address, owner, mailing address, telephone number, legal description, historic use, present use, date of construction (estimate), original owner (if possible), significance (determined in consultation with the specialist if necessary) and a detailed statement on how the nominated property possesses the characteristics of compelling historic importance to the community.

(iii) Current photos of the front and sides of the property, and of the rear to the extent possible. If the photos are digital, they should be at least 300 dpi. All photos should be provided with a photo log indicating the name of the photographer, date of the photo,

view (front, rear, yard, etc.), direction (looking north, etc.) and the address of the subject property.

(iv) Copy of a legally recorded document containing the legal description of the property. This could be an abstract of title, warranty deed, quit claim deed, etc., which may be obtained from the county clerk and recorder.

(v) Application fee, payable to the city.

2. Public hearing procedure.

(i) Quorum required. At least five members of the commission must be present at a hearing in order to establish a quorum. If a quorum is missing due to attendance, then the chair of the commission may set a new date for a special hearing, or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date. If a quorum is missing due to conflicts of interest, then the process in section 24-945(c) shall be used.

(ii) The hearing shall be electronically recorded and minutes prepared. Hearings shall be of ample length to allow all concerned persons to address the commission.

(iii) Commission action/decision. Commissioners may recommend in favor of historic designation for approval of non-owner-nominated properties if five votes are cast in favor of such recommendation, subject to approval by the city council under this section. Owners may appeal the decision pursuant to section 24-950(b).

(iv) City council action on non-owner nominations. Within 30 days of the commission decision, city council shall hold a public hearing and consider all relevant evidence. The council shall vote and render a decision to affirm, deny or modify the designation with a vote of the simple majority. The council decision constitutes final agency action.

(5) Historic districts.

a. Procedure.

1. For a district application for designation, all paperwork for the application must be completed pursuant to the procedures set forth herein. Historic district nominations must be approved by the city council pursuant to the procedures set forth in this subsection.

2. District nominations. Two or more individuals may nominate a district within which they own property. For the purposes of this article, a complete nomination application will include:

(i) The complete nomination form with original signatures of all applicants. In the case of absentee owners as applicants, original signed statements will meet this requirement.

(ii) Completed historic building inventory form for district properties for all properties within the nominated area. The following fields must be completed: address, legal description, owner name and address, style, materials, stories, other historic designation and designating authority, historic use, present use, date of construction, condition, original owner, associated buildings, architectural description, proposed status and the name, address, telephone number and signature of the person or group who completed the inventory form.

(iii) Current digital photos of the front of each property and streetscape photos of each block. The photos should be at least 300 dpi and be provided with a photo log indicating the name of the photographer, date of the photo, view (front, rear, yard, etc.), direction (looking north, etc.) and the address of the subject property.

(iv) List of owners, mailing addresses, district property address and legal description of each property. This item may be supplemented or modified during the nomination process prior to the designation hearing.

(v) Proposed status of all properties as contributing or noncontributing. The applicants should consult with the specialist in making these proposed determinations. This item

may be supplemented or modified during the nomination process prior to the designation hearing.

(vi) Application fee, payable to the city.

(vii) District designation plan, developed in accordance with the requirements in this section. The applicant must submit two unbound copies and an electronic version contained in a .pdf file.

(viii) Historic context statement.

(ix) Statement of significance, including a detailed explanation of how the proposed district meets one or more criteria in section 24-947(c) and how it meets the definition of historic district, as defined in section 24-944.

(x) Petition with signatures of property owners within the district showing support of the nomination. Support of the nomination for an historic district requires the following:

A. The petition shall contain no less than 20 signatures or 20 percent of the number of properties or lots within the proposed area, whichever is less.

B. Each property or lot shall only be represented by one signature. Properties held in any type of joint ownership do not get split votes.

C. The petition shall be considered final for the purposes of accounting for the 20 percent at the time of submission to the city.

3. District designation plan required. Owners of properties being nominated as part of a district must develop a district designation plan. The plan shall address all properties: contributing, noncontributing and properties individually listed on the city's historic register. If a provision of the district designation plan conflicts with this article, then the district designation plan approved by the city council under subsection (5) of this section shall prevail unless doing so would negatively affect the city's certification standing regarding historic preservation. Requirements under the plan will be drafted by the applicant, reviewed by the specialist and considered by the commission. The commission shall forward a recommendation for the plan with the district application to the city council, which shall render the final designation decision.

4. Neighborhood meeting required. If the nomination is for designation of an historic district, a neighborhood meeting shall be held to describe the proposed designation. All owners of property within the proposed district boundaries will be notified by first-class mail of the time, date and location.

5. Historic district owner vote required. After the neighborhood meeting but prior to the commission's designation hearing, a vote by property owners of the nominated district shall be cast to ascertain consent or objection about the proposed designation. The vote shall be done by mail ballot, with one ballot per property as sent by first-class mail by the city clerk's office. The city clerk's office will be responsible for conducting the election of the eligible voters in the proposed historic district. The ballot must be received by the city clerk's office by mail or in person by the date and time specified by the city clerk. Greater than 50 percent of votes cast must be in favor of historic designation or the nomination fails.

6. If greater than 50 percent of cast votes are in favor of the district designation, a public hearing shall be scheduled and notification requirements shall be completed by the city in accordance with section 24-949.

b. Public hearing procedure.

1. Quorum required. At least five members of the commission must be present at a hearing in order to establish a quorum. If a quorum is missing due to attendance, then the chair of the commission may set a new date for a special hearing, or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date. If a quorum is missing due to

conflicts of interest, then the process in section 24-945(c) shall be used.

2. The hearing shall be electronically recorded and minutes prepared. Hearings shall be of ample length to allow all concerned persons to address the commission.

3. Commission action/decision. Commissioners may recommend in favor of historic designation for historic districts if five votes are cast in favor of such recommendation, subject to approval by the city council under this section. Owners may appeal the decision pursuant to section 24-950.

4. City council action on historic districts. Within 30 days of the commission decision, the city council shall hold a public hearing and consider all relevant evidence. The city council shall vote and render a decision to affirm, deny or modify the designation. The city council decision constitutes final agency action.

c. Modification of a district designation plan will follow the same rules and procedures as for the nomination of an historic district, except no moratorium shall be placed on district properties. Property owners within the district or the commission may propose to modify a district designation plan. Proposals to modify a district designation plan shall be reviewed by the commission for recommendation to the city council.

(6) Recording of certificates of designation and notification of designation after approval.

a. The certificate of designation shall be recorded with the county clerk and recorder as follows:

1. Owner-nominated properties shall be recorded within five days after the 30-day period for appeal pursuant to section 24-950 if no appeal is filed, or within five days after a final city council decision.

2. Non-owner-nominated properties or historic districts shall be recorded 35 days after approval by the city council pursuant to the procedures set forth in this subsection.

3. Recording fees shall be paid by the nominating party.

b. Within 15 days after recording of the historic designation, the specialist shall send, via first-class mail, notice to the owners outlining reasons for the designation.

(7) Moratorium.

a. A potential historic property or district which has been nominated but not yet designated shall be legally protected for 120 days or until its status is determined, whichever is sooner.

b. Permits to alter or remodel the exterior of a property or to build, relocate or raze shall not be issued during the moratorium, except by written exemption by the commission under the following criteria:

1. As necessary by law under federal or state law or city ordinance;

2. When deemed to be an emergency;

3. Due to unreasonable economic hardship, as defined in section 24-944; or

4. Due to improper nomination.

c. Owners requesting such exemption may seek an expedited public hearing before the commission at the next scheduled commission meeting by filing such a request with the specialist. If, at such hearing, the commission votes by a two-thirds majority vote that the property is eligible for exemption, the moratorium or nomination shall be suspended in whole or in part in consideration of the property seeking the waiver.

(Ord. No. 17, 2019, § 18.36.070, 4-2-2019)

Sec. 24-949. Notice.

(a) *Notification*. Notification of a commission public hearing at which a designation application or certificate of approval application will be considered shall be given by mailing or emailing a letter to the property owner and

the applicant and by posting a sign at the property. Notification of designation hearings shall also be published in a newspaper of local circulation twice in the two weeks prior to the hearing.

(b) *Notification of nomination and designation public hearings*.

(1) *Notice of nomination and public hearing letter*. The specialist shall send a letter of notification of nomination and public hearing for all city historic register nominations.

a. Owner-nominated properties. For owner-nominated properties, all owners shall receive notice of the nomination and public hearing by first-class mail, sent by the city, by hand delivery or by electronic mail.

b. Non-owner-nominated properties. All owners of non-owner-nominated properties shall receive notice of the nomination and public hearing by certified mail, return receipt requested, sent by the city.

c. All properties within a nominated district. All owners in a nominated district shall receive notice of the nomination and neighborhood meeting by certified mail, return receipt requested, sent by the city.

d. City-owned properties. The city shall receive notice by hand delivery.

e. Such notice of nomination and public hearing shall be postmarked no less than 15 days prior to the hearing and shall reference the following:

1. Privileges, obligations and restrictions which apply to historic properties or districts.

2. For individual owner and non-owner nominations, the time, place and date of the commission public hearing for designation.

3. For historic district nominations, such notice shall also include the time, place and date of the district informational neighborhood meeting, as required in section 24-948(5)a.4.

f. If sufficient ballots voting in favor of district designation are returned from property owners, a district designation hearing shall be scheduled. For notification of the public hearing for historic district nominations, notice shall include the time, date and place of the public hearing, and letters shall be mailed certified mail, return receipt requested, by the city.

g. The notification letters shall be mailed to the owners at their last-known address of record.

(2) *Newspaper notice*. The notice of designation hearing shall also be published in a newspaper of local circulation once a week for two weeks prior to the hearing. Newspaper notice shall include the following information:

a. Street address of the property or a list of addresses or boundaries for properties in a proposed historic district;

b. Type of application: request for certificate of designation;

c. Date, time and place of the public hearing; and

d. Statement that additional information about the request is available at the historic preservation office.

(3) *Sign*. A sign of sufficient size to be readily visible by landowners of adjoining property and from a public right-of-way shall be posted in a prominent place on the property no less than 14 days prior to the public hearing. In the case of nominations for an historic district, postings shall occur in the district in a manner clearly visible from public rights-of-way adjacent to the proposed district.

(c) *Notification of certificate of approval public hearings*. Applicants and property owners shall receive written notice, via first-class mail, at their last-known address of record of the time, place and date of the hearing. Such notice shall be mailed no less than seven days prior to the public hearing. Notice shall also be posted at the property, in a manner clearly visible from the public right-of-way, no less than seven days prior to the public hearing. The notification requirements may be waived administratively with signed approval by the property owner and certificate of approval applicant.

(Ord. No. 17, 2019, § 18.36.080, 4-2-2019)

Sec. 24-950. Appeal.

(a) *Specialist to commission.*

(1) A final decision by the specialist may be appealed by the applicant to the commission.

(2) Appeals to the commission shall be filed by mailing or hand-delivering to the specialist a written notice of appeal within 30 days after the applicant has been served with notice of the decision by the specialist. A determination by the commission shall be issued within 30 days.

(3) The decision of the commission on appeal shall be final unless the applicant or developer elects to appeal the commission decision to the city council.

(b) *Commission to city council.*

(1) Decisions of the commission are reviewable by the city council. The findings and determinations of the commission may be reviewed, modified, affirmed or reversed by a simple majority vote of the elected members of the city council.

(2) Appeals to the city council shall be filed by mailing or hand-delivering to the city clerk a written notice of appeal within 30 days after the determination has been made and entered upon the records of the commission. Determinations issued by the city council shall be conducted within 30 days of filing of the notice of appeal and shall constitute final agency action.

(Ord. No. 17, 2019, § 18.36.090, 4-2-2019)

Sec. 24-951. Incentives.

(a) An owner of a property that has been designated as historic or an owner of a contributing property in a designated historic district may apply for the following economic incentives for the restoration or rehabilitation of that property and such additional incentives as may be developed by the commission pursuant to its rules and regulations:

(1) Applicable state and federal tax credits.

(2) The low-interest loan pool created by the city pursuant to chapter 8 of this title, subject to annual availability.

(3) Building permit fee refund. The building portion of permit fees may be refunded for applications for projects on individually designated properties and all properties in a Greeley Historic Register-Designated District, including contributing and noncontributing properties. The commission shall develop a format for establishing projected costs and rules of the restoration, preservation or rehabilitation in order that such refund of fees is equitable.

(b) The commission shall attempt to identify and implement other economic incentives for historic properties. The specialist shall notify the owners of historic properties of economic incentive opportunities available.

(c) The commission shall make the determination for each request for state historic preservation income tax credits.

(Ord. No. 17, 2019, § 18.36.100, 4-2-2019)

Sec. 24-952. Signage.

A sign approved by the commission may be installed indicating the designation. The commission may supply and pay for uniform signs for designated properties, subject to availability of funds. Such signs shall conform to city ordinances governing other signs in the city.

(Ord. No. 17, 2019, § 18.37.110, 4-2-2019)

Sec. 24-953. Fines and penalties.

(a) Failure to comply with requirements of this article or of a district designation plan shall be a violation

punishable in accordance with this section.

(b) Whenever any work is being done contrary to the provisions of this article or any plan adopted by the commission or approved by city council, a code enforcement inspector or other authorized city official may issue a stop-work order by posting notice at the property or providing notice in writing, served in person or by certified mail on the owner or any persons engaged in the performance of such work, until authorized by the code enforcement officer, city official or commission to proceed with the work. This order of cessation of work is in addition to any other penalties or remedies allowed by this Development Code.

(c) A penalty may be imposed by the commission. The maximum penalty for violation of this article shall be the same as for violations that are sanctioned administratively ~~as Code infractions~~, pursuant to chapter 10 of title 1 of this Code and shall proceed as set forth in chapter 12 of title 2 of this Code.

(Ord. No. 17, 2019, § 18.36.120, 4-2-2019)

Sec. 24-954. Illustrative flow chart.

A process flow chart for illustrative purposes only ~~has been added as Appendix 18-L to this title~~ is included below.

[GRAPHIC - Appendix 18-L Illustrative Flow Chart for Historic District Designation Process (Reference section 24-954)]

(Ord. No. 17, 2019, § 18.36.130, app. 18-L, 4-2-2019)

Sec. 24-955. Alterations to designated properties and properties within a designated district.

(a) Owners intending to reconstruct, improve, demolish or in any way significantly alter or change a designated property or a property in an historic district must first submit their plan for review to the appropriate city departments as to compliance with all city codes and ordinances.

(b) All required building, relocation and/or demolition permits shall be applied for. Permits will not be released without commission approval or unless the community development director determines that the permit should be released due to extenuating or emergency circumstances. The commission or specialist shall not issue a certificate of approval without evidence of permit application, if required. certificates of approval shall be issued contingent upon the owner and/or applicant obtaining all required permits.

(c) After consultation with the city's development departments, the owner shall submit a plan for review by the specialist or commission, and a certificate of approval shall be issued to properties that the specialist or commission believes can be altered without diminishing the historic character of the property or district.

(d) Major alterations.

(1) *Application requirements*. For the purposes of this article, a complete application for major alterations will contain the following: a signed application, legal description, narrative, drawings and mockups as necessary, product literature and/or samples as necessary, and digital photos as determined by the city. Projects shall be reviewed in accordance with the criteria and standards for altering properties set forth in this section.

(2) *Application and hearing process.*

a. Notification. Upon receipt of a complete application, the specialist shall schedule a public hearing for a certificate of approval on the matter before the commission, providing sufficient staff review time. Notice will be given by the city in accordance with requirements in section 24-949.

b. Public hearing. A quorum must be present at a public hearing for a certificate of approval. If a quorum is missing due to attendance, then the chair of the commission may set a new date for a special hearing, or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date. If a quorum is missing due to conflicts of interest, then the process in section 24-945(c) shall be used.

c. The specialist shall prepare a report which shall include a summary of all comments received on the certificate of approval application, along with the staff recommendation, which shall be

presented to the commission. In taking action on a certificate of approval application, the commission shall consider the staff report and recommendation and comments received from the applicant and the public. The commission shall also consider whether the proposed project meets the criteria and standards in section 24-956 in taking action to approve, approve with conditions, deny or table the application for future consideration.

(3) *Findings*. The findings of the commission shall be based on criteria and standards in section 24-956, and the decision of the commission on a certificate of approval major alteration application shall be considered final unless appealed by the property owner or applicant to the city council, in accordance with the appeal process in section 24-950.

(4) *Certificate of approval issued and recorded*. After approval of a certificate of approval major alteration application, the specialist shall cause the certificate of approval, signed by the commission chair, which may include plans, drawings, photos and other documents, as approved, to be recorded in the office of the county clerk and recorder. The applicant or property owner shall be responsible for paying all applicable recording fees. Work shall be completed within 12 months of the date of commission approval, with the option for up to two six-month extensions as approved by the community development director. Work not complete within these time parameters will require new approval through submittal of a new application to the commission for review.

(5) *Denial*. If an application for a certificate of approval is denied, the applicant may revise the application extensively or submit a new application for review by the commission. In this case, the application would be considered a new application and would follow the entire process for certificate of approval applications. The applicant may appeal decisions of the specialist to the commission and decisions of the commission to the city council, in accordance with appeal procedures in section 24-950.

(e) Minor alterations.

(1) *Application requirements*. For the purposes of this article, a complete application for minor alterations will contain the following: signed application, photos, narrative, product literature or drawings as necessary and the application fee as determined by the city.

(2) *Application process.*

a. Notification. Upon receipt of a complete application, the specialist shall notify the property owner and applicant of receipt of the application and requirement for staff review.

b. No public hearing. No public hearing is required for minor alteration applications.

c. Findings. The specialist shall review the application for minor alterations and make findings based on criteria and standards set forth in section 24-956.

d. Certificate of approval issued and recorded. The specialist shall approve the application and issue a certificate of approval if the proposed project meets the criteria and standards set forth in section 24-956 and can be completed without negatively impacting the historical integrity of the property. After approval, the specialist shall cause the certificate of approval for minor alterations to be signed by the specialist, which may include plans, photos or other documents, to be recorded in the office of the county clerk and recorder. The applicant or property owner shall be responsible for paying all applicable recording fees.

e. If the specialist finds that the proposed project does not meet the criteria and standards in section 24-956, the specialist will notify the applicant of the reasons for denial and notify the applicant of the opportunity to appeal the decision to the commission.

(f) Relocation.

(1) *Application requirements*. For the purposes of this article, a complete application for relocation will contain the following: signed application, location information, narrative, drawings, digital photos and the application fee as determined by the city.

(2) *Application process*. The application process for relocation applications will follow the same process as for major alterations, as set forth in this section.

(g) Demolition.

(1) *Application process and requirements*. For the purposes of this article, a complete application for demolition will contain the following: signed application, narrative, digital photos, additional documentation as requested and the application fee as determined by the city.

(2) *Application process*. The application process for demolition applications will follow the same process as for major alterations, as set forth in this section.

(h) Emergencies. In the event of an emergency, as defined in section 24-944, owners shall perform necessary measures to preserve the property and notify the specialist within three days of the emergency event. Owners shall make efforts to document the damage and provide that documentation, including photos and the measures done to preserve the structure, to the specialist to assist in establishing the proper treatment for the property and to obtain a certificate of approval if necessary.

(i) Requirement of maintenance to prevent demolition by neglect.

(1) The owner of a designated property and owners of properties in an historic district must perform reasonable maintenance of the properties, as that term is defined in section 24-944.

(2) The owner of a designated property and owners of properties in an historic district shall not commit demolition by neglect, as that term is defined in section 24-944.

(3) Noncompliance with this section will be punishable in accordance with other violations of this article, the same as for violations that are sanctioned administratively ~~as Code infractions~~, pursuant to chapter 10 of title 1 of this Code and shall proceed as set forth in chapter 12 of title 2 of this Code.

(Ord. No. 17, 2019, § 18.36.140, 4-2-2019)

Sec. 24-956. Criteria and standards for review of certificate of approval applications.

(a) Criteria and standards for alterations to a designated property or a property in an historic district are as follows:

(1) The effect of the alteration or construction upon the general historical or architectural character of the designated property.

(2) The architectural style, arrangement, texture and materials of existing and proposed construction, and their relationship to the other buildings.

(3) The effects of the proposed work in creating, changing or destroying the exterior architectural features and details of the structure upon which the work shall be done.

(4) The compatibility of accessory structures and fences with the main structure on the site and with adjoining structures.

(5) The effect of the proposed work upon the protection, enhancement, perpetuation and use of the landmark or landmark district.

(6) Compliance with the current Secretary of the Interior's Standards for the Rehabilitation of Historic Properties, as defined in section 24-944.

(7) If the property is a noncontributing property in an historic district, then alterations will be in accordance with the district designation plan as recommended by the commission and approved by city council.

(8) Other requirements for alterations of a designated property or contributing property in a district as are required by the procedures and bylaws established by the commission.

(b) Criteria for relocation of a designated property or contributing properties in a district are as follows:

(1) In all cases, it shall be the preference of the commission to keep structures at their original sites.

(2) For relocation applications, the commission shall consider the following criteria in addition to those described for alterations:

a. *Original site*.

1. Documentation showing that the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property.
2. The significance of the structure as it relates to its present setting.
3. When a governmental entity exercises power of eminent domain, the commission should first consider relocating before demolishing.
4. Whether the structure can be moved without significant damage to its physical integrity, and the applicant can show that the relocation activity is the best preservation method for the character and integrity of the structure.
5. Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting.
6. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.

b. *New location*.

1. Whether the building or structure is compatible with its proposed site and adjacent properties and if the receiving site is compatible in nature with the structure proposed to be moved.
2. Whether the structure's architectural integrity is consistent with the character of the neighborhood.
3. Whether the relocation of the historic structure would diminish the integrity or character of the neighborhood of the receiving site.
4. Whether the proposed relocation is in compliance with all city ordinances.

(c) Criteria for demolition of a designated property or contributing property in a district. A permit for demolition shall be issued if the applicant can clearly demonstrate that the designated property meets the criteria for demolition as set forth under this article by balancing the criteria of subsections (c)(1) through (4) of this section versus subsection (c)(5) of this section. Not all of the criteria must be met for the commission to recommend demolition. Appeals of the decision shall be made under section 24-950.

(1) The structure must be demolished because it presents an imminent hazard.

(2) The structure proposed for demolition is not structurally sound despite evidence of the owner's efforts to properly maintain the structure.

(3) The structure cannot be rehabilitated or reused on site to provide for any reasonable beneficial use of the property.

(4) The structure cannot be moved to another site because it is physically or economically impractical.

(5) The applicant demonstrates that the proposal mitigates to the greatest extent practicable the following:

a. Significant impacts that negatively alter the visual character of the neighborhood where demolition is proposed to occur.

b. Significant impact on the historical importance of other structures located on the property and adjacent properties.

c. Significant impact to the architectural integrity of other structures located on the property and adjacent properties.

(6) If partial demolition is approved by the commission and is required for the renovation, restoration or rehabilitation of the structure, the owner should mitigate, to the greatest extent possible:

a. Impacts on the historical importance of the structure or structures located on the property.

b. Impacts on the architectural integrity of the structure or structures located on the property.

(Ord. No. 17, 2019, § 18.36.150, 4-2-2019)

Sec. 24-957. Removal from historic register/hardship exemptions.

(a) *Removal*. City council may remove the designation of an historically designated property or district if it finds that historic designation creates an undue hardship in accordance with the criteria in this section.

(b) *Criteria for removal or hardship exemption*. If a request to the commission for a certificate of approval does not conform to the applicable criteria, an applicant may request an exemption from the certificate requirements, provided that the intent and purpose of this article are not significantly eroded, and provided that adequate documentation is submitted to the commission either in writing or by testimony to establish qualification for one of the following exemptions. Such documentation or testimony must be substantiated by professional opinion or thorough explanation of how the information was obtained.

(1) Economic hardship exemption. An economic hardship exemption may be granted if:

a. The owner is unable to obtain a reasonable return on investment in the property's present condition or in a rehabilitated condition.

b. For non-income-producing properties, the owner is unable to resell the property in its current condition or if rehabilitated.

c. The economic hardship claimed is not self-imposed, including from lack of maintenance.

(2) Health/safety hardship exemption. To qualify for undue hardship, the applicant must demonstrate that the application of criteria creates a situation substantially inadequate to meet the applicant's needs because of health and/or safety considerations.

(3) Inability to use exemption.

a. If no sale can be made or no feasible use is found for the structure within two years of denial of a permit, the owner may request a waiver of all or part of the process described above.

b. In determining the applicability of this section, the commission shall include the following factors in its deliberations:

1. Written documented evidence illustrating efforts by the owner to make repairs, find an appropriate use or sell the property.

2. Written evidence of the owner's efforts to secure assistance for conforming the application with this article without demolition or defacement.

(4) For the purpose of establishing and maintaining sound, stable and desirable historic districts within the city, the removal of historic designation is to be discouraged. This policy is based on the opinion of the city council that the city's historic districts and individually designated properties are the result of a detailed and comprehensive appraisal of the city's present and future needs regarding land use allocation and other considerations while supporting the city's historical significance; and, as such, the policy should not be amended unless to correct manifest errors or because of changed or changing conditions in a particular area of the city in general.

(Ord. No. 17, 2019, § 18.36.160, 4-2-2019)

Sec. 24-958. Severability clause.

If any provision of this article, any provision of any rule or regulation lawfully promulgated hereunder or any application of this chapter or rule or regulation promulgated hereunder to any person or circumstance is held invalid or inoperative, such invalidity or inoperativeness shall not affect other provisions or applications of this article or rules or regulations. The city council hereby declares that, in these regards, the provisions of this Development Code and all rules and regulations promulgated hereunder are severable. In the event that any part of this article negatively affects the city's certified status as a certified local government by the National Park Service, then the conflicting provision shall be severable.

(Ord. No. 17, 2019, § 18.36.170, 4-2-2019)

Secs. 24-959--24-989. Reserved.

~~CHAPTER 18.37.~~ ARTICLE V. HISTORIC PRESERVATION LOW INTEREST LOAN PROGRAM

Sec. 24-990. Statement of purpose.

The purpose of this article is to:

(1) Promote and support the maintenance of historic properties by providing a pool of available funds which will be loaned at low rates of interest for the maintenance and improvement of properties designated as historic by the city;

(2) Foster civic pride in the accomplishments and heritage contained in the city's past as exhibited in the city's architecture, homes and public and private buildings;

(3) Enhance the physical attractiveness of the city;

(4) Promote the recycling and adaptive reuse of architectural sites, structures, objects and districts for the education, stimulation and welfare of the people of the city; and

(5) Promote the economic revitalization of the city.

(Ord. No. 17, 2019, § 18.37.010, 4-2-2019)

Sec. 24-991. Creation of Committee.

(a) The historic preservation loan committee (hereafter the committee) shall consist of seven voting members as appointed by the historic preservation commission. The committee shall have one member with experience in residential and/or commercial construction management, one member engaged in regional or local history, one licensed real estate broker, one member of the historic preservation commission and the following city employees: director of community development, historic preservation specialist and assistant city manager.

(b) The committee shall have the following ex officio members: a member of the city attorney's office as the legal advisor; a representative of the city finance department; and one member of the city council.

(c) One city employee committee member shall be appointed by the city manager as an administrator, to be referred to hereafter as staff liaison.

(d) Appointment of the committee members shall be for a maximum of three-year terms. The initial terms will be staggered as established by the historic preservation commission.

(e) Vacancies on the committee shall be filled by the historic preservation commission.

(f) Members of the committee whose terms of office expire may apply for reappointment.

(g) Members of the committee wishing to resign prior to completion of the appointment term shall inform the historic preservation commission in writing, with a copy sent to the committee chair and the staff liaison.

(Ord. No. 17, 2019, § 18.37.020, 4-2-2019)

Sec. 24-992. Rules of procedure.

The committee shall conduct its proceedings in accordance with Robert's Rules of Order and set forth additional rules and procedures in the form of bylaws for the committee.

(Ord. No. 17, 2019, § 18.37.030, 4-2-2019)

Sec. 24-993. Powers and duties of committee.

(a) The committee shall have the power to:

(1) Establish loan criteria to be approved by council resolution.

(2) Receive and review applications for credit.

(3) Approve or deny applications for loans.

(4) Conduct inspections.

(5) Supervise and administer an historic preservation loan program between and among the city and the owners of designated properties, including those properties designated on the state register or the National Register of Historic Places.

(b) The committee shall have the duty to:

(1) Conduct itself in a professional manner, holding all financial information and other sensitive information in strict confidence;

(2) Make all loan decisions with consideration for the future and stability of the loan pool.

(Ord. No. 17, 2019, § 18.37.040, 4-2-2019)

Sec. 24-994. Procedure for application to committee.

(a) Any owner of an eligible property may submit an application for consideration by the committee. As part of the application process, the owner shall also submit a detailed description of the owner's plan for the historic preservation and protection of the subject property.

(b) The property owner shall submit an itemized brands and materials list.

(c) The owner shall also submit financial statements for all persons applying for historic preservation loans as may be requested by the committee.

(d) The committee reserves the right to request such additional information as it determines necessary relative to ownership, financial considerations, plans, contractor information and/or other information the committee determines pertinent.

(Ord. No. 17, 2019, § 18.37.050, 4-2-2019)

Sec. 24-995. Criteria for approval or denial.

(a) Applications for participation in the historic preservation loan program shall be in the names of all owners of title. Application in the names of less than all owners shall not be permitted.

(b) Ownership and title to the property, which will be the subject of the historic preservation loan, must be in good or marketable title, with all taxes and loans current, liens paid, no foreclosure proceedings pending and all restrictions of record and encumbrances disclosed and approved by the committee, and be in compliance with all zoning codes.

(c) The owner will provide such documents and proof of title, including encumbrances, liens, restrictions of record or other evidence of the title to the property as the committee may request. The owner shall agree to pay for all ownership and encumbrance reports, title insurance, title searches and other fees as the committee may deem necessary or appropriate. All such costs must be paid by the owner at the commencement of the loan application process.

(d) The committee shall apply such loan repayment criteria to each historic preservation loan application as the committee determines is appropriate.

(e) The committee shall, after consultation with the applicants, determine an appropriate loan repayment schedule which may be on a monthly basis, but in no event shall it be on less than a quarterly basis. Forty-five days after failure to make timely payment shall cause the entire principal balance, together with all accrued interest thereon, to become a lien upon the property. The lien shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified by the director of finance, together with all accrued interest thereon and a ten percent collection charge, to the county treasurer for collection as provided by law; provided, however, that, at any time prior to sale of the property, the applicants may pay the amount of all delinquent installment payments, together with all accrued interest and the ten percent collection charge thereon, and any other penalties and costs of collection. Upon such payment, the applicants shall thereupon be restored to nondelinquent status and may thereafter pay in installments in the same manner as if default had not been made.

(Ord. No. 17, 2019, § 18.37.060, 4-2-2019)

Sec. 24-996. Request for reconsideration.

A person who applies for a loan pursuant to this article and whose application is denied may reapply not more than once in any 12-month period. Decisions made by the committee are final.

(Ord. No. 17, 2019, § 18.37.070, 4-2-2019)

Secs. 24-999--24-1020. Reserved.

~~**CHAPTER 18.36. RESERVED**~~

~~**Editor's note**— Ord. No. 1, 2017, § 1(exh. A), adopted Jan. 17, 2017, repealed Ch. 18.36, §§ 18.36.010—18.36.060, which pertained to home occupations and derived from Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 26, 2011, § 1, 9-6-2011.~~

~~CHAPTER 18.38~~ ARTICLE VI. ZONING DISTRICT DEVELOPMENT STANDARDS

Sec. 24-1021. Purpose and intent.

The purpose of this chapter is to set forth regulations governing lot size, lot coverage and setbacks, building height, street width, sidewalks and open space requirements and to provide options for meeting these requirements, to encourage building and development design which is related to and compatible with its surroundings.

(Code 1994, § 18.38.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1022. General provisions.

(a) Development standard requirements for each land use shall be as set forth in the development standards charts for each zoning district in this chapter, except the General Improvement District No. 1, which shall be exempt from the provisions in this chapter.

(b) All development standards applicable for a land use which is permitted, permitted by design review or use by special review in a particular zoning district shall be met by the base standard requirement, or by the selection of options provided on the performance option charts.

(c) In no event shall performance options be combined which result in a design that does not meet the intent of this chapter, does not provide for the adequate provision of all public utilities and services, impedes clear vision, alters or reduces building code requirements or adversely affects the public health, safety or welfare. Performance options selected for a particular development application shall be evaluated for use in the particular instance.

(d) Categories A through J on the development standards charts shall be used to review subdivision applications or individual lot development applications, or to make adjustments in lots within an approved subdivision at the time a building permit application is submitted, as may be applicable.

(e) A mix of lot sizes as described on the development standards charts may be used within a development, provided that each separate phase or tract of a development shall be a minimum of two contiguous acres in size and shall be designed with only one lot size or development approach such as cluster development or large lot development.

(f) Where more than one principal land use is located in the same building or on the same lot and such land uses require different review procedures and/or development standards, the more restrictive review process or development standard which results in a higher standard shall apply to all principal uses located in the same building or on the same lot.

(g) Lot coverage shall include all land area covered by buildings, patios or decks with roofs, carports, swimming pools, tennis courts or land area covered by any other type of structure, including parking lots. Land area shall not be considered covered if it is used for growing grass, trees, shrubs, plants or flowers, or if covered by decorative rock, stone, wood chips or other similar landscape material.

(h) Setbacks shall be measured from the nearest existing property line for the side of the structure being measured to the foundation. ~~Appendix 18-E of this title provides~~ Illustrations for determining various setbacks are on file in the city clerk's office.

~~APPENDIX 18-E Determining Setbacks~~

~~(Illustrations to be added)~~

(i) No building or structure, or any part thereof, shall be placed in required setback areas except as specifically authorized as follows:

(1) Front setbacks. Driveways, sidewalks, signs, retaining walls and fences under 42 inches in height may be placed within required front setbacks, provided that all other provisions of this title are met. Porches and patios attached to the principal building, whether or not covered by roofs, may extend to within ten feet of the property line, provided that such porches or patios remain at least 65 percent open and unobstructed on three sides and all provisions pertaining to clear visibility are met. Ramps, steps and landings within ten feet of the property line which provide access from the sidewalk to first floor building entries shall be excluded from this provision. Accessory uses such as temporary carport covers, satellite dishes and playground equipment may not be placed in the front setback.

[GRAPHIC - Figure 24-2: Buildable area defined by setbacks]

(2) Side on-street setbacks. Driveways, sidewalks, signs, retaining walls and fences shall be permitted in side setbacks adjacent to public streets, provided that all provisions of this title are met. Recreational equipment and recreational vehicles are permitted within this setback if located no closer than ten feet to the property line and, provided that all provisions of this title are met. (See section 24-1105.) See base standard section I under residential development standards for specific limitation in this area (subsections 24-1024--24-1027).

(3) Interior side setbacks. Sidewalks, retaining walls, fences, at-grade uncovered patios and recreational equipment and recreational vehicles are permitted within required side setbacks, provided that all provisions of this title are met. (See section 24-1105.) Driveways shall not be located in a required side yard except where they may intersect at a right angle to accommodate access from a corner lot to the street or to accommodate a side-loaded garage. Accessory buildings shall be at least six feet from the principal building and at least five feet from the interior side lot line. Parking slabs, tennis courts and swimming pools may be extended into required interior side setbacks to within five feet of the interior side lot lines. Portable accessory buildings less than 120 square feet in size which do not require a building permit shall be exempt from this provision. (See also chapter 15 of this title.)

(4) Rear setbacks. Driveways, sidewalks, signs, retaining walls, fences and recreational equipment and recreational vehicles are permitted in required rear setbacks, provided that all other provisions of this title are met. (See section 24-1105.) Patios and porches, whether or not covered by roofs, may be extended into required rear setbacks to within five feet of the rear property line, provided that they remain at least 65 percent open and unobstructed on three sides. In addition, accessory buildings may be located in required rear setbacks, provided that the accessory buildings are at least six feet from the principal building and at least five feet from the rear property line. Parking slabs, tennis courts and swimming pools may be extended into required rear setbacks to within five feet of the rear lot lines.

(5) Eaves, chimneys, canopies, cornices, bay windows, fire escapes and similar architectural features may extend into any required setback for up to three feet. Where using building envelopes as an option for development, all architectural features shall be fully contained within the building envelope.

(6) Stairs that provide access to floors above or below the first floor shall be considered a part of the building or structure, for setback purposes.

(j) Setbacks shown on the development standards charts do not include setbacks that may be required for oil and gas operations. Those setbacks defined in chapter 18 of this title for oil and gas operations shall also apply to buildings or structures constructed or placed in proximity to oil and gas operations and shall be subject to all applicable provisions of the fire code. For those areas defined as high-density areas in section 24-1379(a), alternative compliance, as provided in section 24-1034, may be used to propose reduced setbacks for buildings or structures in proximity to oil and gas operations. For further information, refer to chapter 18 of this title on oil and gas operations for required setbacks, and to the fire code.

(k) Common open space shall be determined based on the gross area of a development or site and when phasing development shall be provided at the required rate within each phase.

(l) A minimum of 50 percent of the required amount of common open space in a development shall be in usable open space as follows: Usable open space means an area which is unoccupied by principal or accessory buildings and which is available to all occupants of the development for use for recreational and other leisure activities normally carried on outdoors. The area shall be unobstructed to the sky and shall have a minimum dimension of 50 feet and a minimum area of 6,000 square feet, excluding setbacks adjacent to rights-of-way. The requirement for usable open space may be met by providing one recreational amenity, not otherwise required, per 1,000 square feet of required usable open space as follows:

(1) Playgrounds with commercial grade equipment, picnic/barbeque areas with commercial grade equipment, or court games (tennis, volleyball or basketball courts) at least 1,000 square feet in size shall count as one recreational amenity.

(2) Individual balconies, decks and patio areas that are not intended or designed to be enclosed. Providing balconies, decks or patio areas for all dwelling units shall count as one-half recreational amenity.

(3) A system of pedestrian trails shall count as one-half recreational amenity.

(4) Plazas, or atria within a building, excluding hallways, which cover at least 1,000 square feet in size shall each count as one recreational amenity.

(5) In-the-ground swimming pools at least 20 feet by 40 feet and community buildings at least 2,000 square feet in size shall each count as two recreational amenities.

(6) 75 percent of humanmade detention/retention pond area shall be counted as usable open space. If a landscape plan to be installed by the developer is approved by the community development director, 100 percent credit shall be given for humanmade detention/retention ponds. 100 percent of natural pond area shall be counted as usable open space.

(7) Site characteristics of natural significance which may offer aesthetic or ecological value may qualify as determined by the city.

(8) Active garden plots in common areas may be counted toward meeting usable open space or recreational amenity requirements as determined by the community development director, based on a review of the extent and location of garden plots, desirability for future residents and variety of amenities proposed.

(9) Credit may be provided for other features not included within this list. Such credit shall be based on the determination of the community development director, based on a review of the location, extent, building form, desirability for future residents and variety of amenities proposed, and whose final decision may also be appealed to the planning commission.

(m) All street pavement width or travel aisle dimensions in sections 24-1023 through 24-1030 refer to flowline-to-flowline design and construction.

(n) Additional areas in this title which may contain related information and which should be referred to include the overlay districts in article III of chapter 8 of this title, general performance standards in chapter 9 of this title, off-street parking and loading standards in chapter 10 of this title, landscaping and buffering standards in chapter 11 of this title, design review performance standards in chapter 12 of this title, areas of ecological significance in chapter 13 of this title, hillside development standards in chapter 14 of this title, accessory and temporary uses, structures and buildings in chapter 15 of this title, signs in chapter 17 of this title and oil and gas operations in chapter 18 of this title.

(o) Application fees shall be set in accordance with section 1-38. Fees shall not exceed the cost of processing applications.

(p) All development shall comply with any applicable development concept master plans as provided in section 24-626.

(q) No more than 50 percent of front yard setbacks shall be covered with hard surface, except on cul-de-sac lots, where the coverage may be a maximum of 75 percent and as long as the only hard surface in the front yard setbacks is driveway or sidewalk.

(r) Uses which generate noise or glare, including outdoor vending machines, shall not be located in areas of

the site which are visible from any residential land use.

(Code 1994, § 18.38.020, app. 18-E; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 6, 2004, § 1, 2-17-2004; Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 40, 2009, § 1, 8-18-2009; Ord. No. 22, 2010, § 1, 6-15-2010; Ord. No. 26, 2011, § 1, 9-6-2011)

Sec. 24-1023. R-L Residential Low Density District.

This district is intended to provide the development of areas containing and planned for low-density residential development, with a typical gross density of three to five dwelling units per acre. This district may also include uses which support and are compatible with low-density residential areas. Also refer to the table of principal land uses for the R-L District in chapter 8 of this title.

R-L District Development Standards

Category	*Base Standard*	*Base Standard - Options*	*Small Lots/Cluster Development*	*Building Envelopes*	*Infill/Redevelop (See chapter 12 of this title)*
A. Land Use	Single-family; all other allowed uses	Single-family; all other allowed uses	Single-family; all other allowed uses	Single-family; all other allowed uses	Single-family; all other allowed uses
B. Lot Size (may differ for hillside areas (see chapter 14 of this title)	6,000 sq. ft. min.	6,000 sq. ft. min.	4,500 - 6,000 sq. ft.	1,000 sq. ft. min. per envelope and equivalent of 6,000 sq. ft. of lot area per unit	6,000 sq. ft. min.
C. Street Width (local streets)	34' pavement, on 60' ROW	Base, match existing, or Options 8, 10, 11, 12 or 13	Base, match existing, or Options 8, 10, 11, 12 or 13	Base, match existing, or Options 8, 10, 11, 12 or 13	Match existing street
D. Open Space – percent of site	Private (on lot): 30 percent common: n/a	Private (on lot): 30 percent common: n/a	Private (on lot): 30 percent common: 25 percent of entire development site or Option 14	Private (on lot): n/a common: 30 percent or Option 14	Private (on lot): 30 percent common: n/a
E. Sidewalks (local streets)	5' wide attached, both sides	Base, match existing, or AC *	Base, match existing, or AC *	Base, match existing, or AC *	Match existing sidewalk
F. Parking	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title
G. Landscaping, Buffering and Perimeter	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title

Treatment					
H. Lot Coverage - maximum	70 percent	70 percent	70 percent	70 percent of entire development site	70 percent
I. Building, Structure Setbacks (See chapter 15 of this title for accessory buildings and structures)	25' front, 20' rear, 5' side; 15' street side except where side-loaded garages are used, which require a 20' setback; 5' rear and 5' interior side for accessory structures	Base, Option 1, 2 or AC *	Base, Option 1, 2 or AC *	(Building envelope separation) Base, Option 1, 2 or AC *	Match existing average
J. Building, Structure Height	30'	Base, Option 5 or AC *	Base, Option 5 or AC *	Base, Option 5 or AC *	Base or Option 5

* Alternative Compliance (AC)--See section 24-1034.

(Code 1994, § 18.38.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 04, 2008, § 5, 2-5-2008)

Sec. 24-1024. R-E Residential Estate District.

This district is intended to provide for the development of areas containing and planned for low-density single-family residential development with a typical gross density of one to three dwelling units per acre. This district may also include uses which support and are compatible with low-density residential areas. Also refer to the table of principal land uses for the R-E District in chapter 8 of this title.

R-E District Development Standards

Category	*Base Standard*	*Base Standard - Options*	*Building Envelopes*	*Infill/Redevelop (See chapter 12 of this title, Design Review)*
A. Land Use	Single-family; all other allowed uses	Single-family; all other allowed uses	Single-family; all other allowed uses	Single-family; all other allowed uses
B. Lot Size (may differ for hillside areas (see chapter 14 of this title)	13,000 sq. ft. min.	13,000 sq. ft. min.	1,000 sq. ft. min. per envelope and equivalent of 13,000 sq. ft. of lot area per unit	13,000 sq. ft. min.
C. Street Width (local streets)	20' pavement, on 50' ROW	Base, match existing or Option 8, 10, 11, 12 or 13	Base, match existing or Option 8, 10, 11, 12 or 13	Match existing street
D. Open Space -	Private (on lot): 30	Private (on	Private (on lot): n/a	Private (on lot): 30

percent of site	percent common: n/a	lot): 30 percent common: n/a	common: 30 percent or Option 16	percent common: n/a
E. Sidewalks (local, low volume streets)	None	Base, match existing, or AC *	Base, match existing, or AC *	Match existing sidewalk
F. Parking	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title
G. Landscaping, Buffering and Perimeter Treatment	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title
H. Lot Coverage - maximum	70 percent	70 percent	60 percent of entire development site	70 percent
I. Building, Structure Setbacks (See chapter 15 of this title for accessory buildings and structures)	25' front, 20' rear, 5' side; 15' street side except where side-loaded garages are used, which requires a 20' setback; 5' rear and 5' interior side for accessory structures	Base, Option 1, 2 or AC *	(building envelope separation) Base, Option 1, 2 or AC *	Match existing average
J. Building, Structure Height	30'	Base, match existing, Option 5 or AC *	Base, Option 5 or AC *	Base or Option 5

*Alternative Compliance (AC)--See section 24-1034.

(Code 1994, § 18.38.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 04, 2008, § 5, 2-5-2008)

Sec. 24-1025. R-MH Residential Mobile Home District.

This district is intended to provide for mobile home parks and communities at a maximum gross density of eight dwelling units per acre. This district may also include uses which support and are compatible with medium-density residential areas. Also refer to the table of principal land uses for the R-MH District and chapter 8 of this title.

R-MH District Development Standards

Category	*Base Standard*	*Base Standard - Options*
A. Land Use	Mobile homes	Mobile homes
B. Lot Size (may differ for hillside areas (see chapter 14 of this title)	8 acres for mobile home park or community; maximum gross density 8 DU/acre	8 acres for mobile home park or community; maximum gross density 8 DU/acre
C. Street Width (local streets)	34' pavement, 60' ROW	Base or Option 8, 11, 12 or 13

D. Open Space--percent of site	Common: 25 percent of entire site	Base or Option 14
E. Sidewalks (local streets)	5' wide attached, both sides	Base, Option 9 or AC *
F. Parking	See chapter 10 of this title	See chapter 10 of this title
G. Landscaping, Buffering and Perimeter Treatment	See chapter 11 of this title	See chapter 11 of this title
H. Coverage (for entire mobile home park)--maximum	75 percent	75 percent
I. Building, Structure Setbacks and Separation (See chapter 12 of this title, Design Review Performance Standards, for further information on building and structure separations)	25' between home and perimeter public ROW (pedestrian paths may be within 25'); 20' to property lines if not separated by a road (reduced to 10' if adjacent property is also zoned R-MH and nearest mobile home is 10' away, sited end-to-end); 15' between homes (side to side) and 15' between homes and internal roadways (increased to 20' if parking is in front yard) and between homes and permanent structures separated by a one-hour barrier; 5' between home and pedestrian pathways or sidewalks when pathways or sidewalks are not attached to the roadway	Base or Option 3
J. Building, Structure Height	30'	30'

* Alternative Compliance (AC)--See section 24-1034.

(Code 1994, § 18.38.050; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 04, 2008, § 5, 2-5-2008)

Sec. 24-1026. R-M Residential Medium Density District.

This district is intended to provide for the development of areas containing and planned for medium-density residential development with a typical gross density of five to ten dwelling units per acre. This density will be achieved by a mix of dwelling types including single-family dwellings on individual lots, two-family or duplex dwellings and single-family attached dwellings, or town homes. This district also includes uses which support and are compatible with medium-density residential areas. Also refer to the table of principal land uses for the R-M District in chapter 8 of this title.

R-M District Development Standards

Category	*Base Standards*	*Base Standard - Options*	*Small Lots/Cluster Development*	*Building Envelopes*	*Townhouse Lots*	*Infill/Redevelop (See chapter 12 of this title and division 7 of article III of chapter 8 of this title)*
A. Land Use	Single- or two-family dwellings; all other allowed	Single- or two-family dwellings; all other	Single- or two-family dwellings; all other allowed uses	Single- or two-family dwellings; all other allowed uses (does	Townhouses up to 4 attached dwellings; all other	Single- or two-family dwellings, townhouses up to 4 attached dwellings; all other allowed

	uses	allowed uses		not apply to townhouses)	allowed uses	uses
B. Lot Size (may differ for hillside areas (see Chapter 18.50)	6,000 sq. ft. min.	6,000 sq. ft. min.	4,500 - 6,000 sq. ft.	1,000 sq. ft. min. per dwelling unit and equivalent of 6,000 sq. ft. of lot area per envelope	2,000 sq. ft. min. per unit; 6,000 sq. ft. min. lot; max. 4 units attached	6,000 sq. ft. min.
C. Street Width (local streets)	34' pavement, on 60' ROW	Base, match existing or Option 8, 10, 11, 12 or 13	Base, match existing or Option 8, 10, 11, 12 or 13	Base, match existing or Option 8, 10, 11, 12 or 13	Base, match existing or Option 8, 10, 11, 12 or 13	Match existing street
D. Open Space – percent of site	Private (on lot): 30 percent common: n/a	Private (on lot): 30 percent common: n/a	Private (on lot): 30 percent common: 25 percent or Option 14	Private (on lot): n/a common: 30 percent or Option 14	Private (on lot): n/a common: 25 percent of entire site or Option 14	Private (on lot): 30 percent common: n/a, Option 17 or AC *
E. Sidewalks (local streets)	5' wide detached, both sides	Base, match existing, or AC *	Base, match existing or AC *	Base, match existing, or AC *	Base, match existing or AC *	Match existing sidewalk
F. Parking	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title and division 2 of article III of chapter 8 of this title
G. Buffering, perimeter treatment	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title
H. Lot Coverage - maximum	70 percent	70 percent	70 percent	70 percent of entire development site	70 percent	70 percent, Option 17 or AC *
I. Building, Structure Setbacks (See chapter 15 of this title for accessory bldgs. And struct.)	25' front, 20' rear, 5' side; 15' street side except where side-loaded garages are used, which require a 20' setback; 5'	Base, Option 1, 2 or AC *	Base, Option 1, 2 or AC *	(building envelope separation) Base, Option 1, 2 or AC *	Base, Option 1, 2 or AC *	Match existing average of block face or AC *

	rear and 5' interior side for accessory structures					
J. Building, Structure Height	30'	Base, Option 5 or AC *	Base, Option 5 or AC *	Base, Option 5 or AC *	Base, Option 5 or AC *	Base, Option 5 or AC *

* Alternative Compliance (AC)--See section 24-1034.

(Code 1994, § 18.38.060; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 04, 2008, § 5, 2-5-2008; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-1027. R-H Residential High Density District.

This district is intended to provide for the development of areas containing and planned for high-density residential development, with a typical gross density of ten to 20 dwelling units per acre. This density will be achieved by a mix of dwelling types including single-family dwellings on individual lots, two-family or duplex dwellings, single-family attached dwellings, or town homes and multifamily dwellings. This district may also include uses which support and are compatible with high-density residential areas. Also refer to the table of principal land uses for the R-H District in chapter 8 of this title.

R-H District Development Standards

Category	*Base Standards*	*Base Standard - Options*	*Small Lots/Cluster Development*	*Building Envelopes*	*Townhouse Lots*	*Infill/Redevelop (See chapter 12 of this title and division 7 of article III of chapter 8 of this title)*
A. Land Use	Single-, two- or multifamily dwellings, all other allowed uses	Single-, two- or multifamily dwellings, all other allowed uses	Single-, two- or multifamily dwellings, all other allowed uses	Single-, two- or multifamily dwellings, all other allowed uses	Townhouse dwellings (no maximum number attached)	Single-, two- or multifamily dwellings, all other allowed uses
B. Lot Size (may differ for hillside areas (see chapter 14 of this title)	6,000 sq. ft. min.	6,000 sq. ft. min.	4,500--6,000 sq. ft.	1,000 sq. ft. min. per envelope and equivalent of 6,000 sq. ft. per lot	2,000 sq. ft. min. per unit; 6,000 sq. ft. min. lot	6,000 sq. ft. min.
C. Street Width (local streets)	34' pavement, on 60' ROW	Base, match existing or Option 8, 10, 11, 12 or 13	Base, match existing or Option 8, 10, 11, 12 or 13	Base, match existing or Option 8, 10, 11, 12 or 13	Base, match existing or Option 8, 10, 11, 12 or 13	Match existing street
D. Open Space -	Multifamily dwellings:	Multifamily dwellings:	Other uses: private (on	Multifamily dwellings: 30	Townhouse dwellings:	Multifamily dwellings: 30

percent of site	30 percent of site in common open spaces other uses: private (on lot): 30 percent common: n/a	30 percent of site in common open space or Option 14, 15 or 16 other uses: private (on lot): 30 percent common: n/a	lot): 30 percent common: 25 percent of entire development site or Option 14, 15 or 16	percent of site in common open space or Option 14, 15 or 16 other uses: private (on lot): n/a common: 30 percent of entire development site	private (on lot): n/a common: 25 percent of entire development site or Option 14, 15 or 16	percent of site in common open space or Option 14, 15 or 16 other uses: private (on lot): 30 percent common: n/a, Option 17 or AC *
E. Sidewalks (local streets)	5' wide attached, both sides	Base, match existing, or AC *	Base, match existing or AC *	Base, match existing, or AC *	Base, match existing or AC *	Match existing sidewalk
F. Parking	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title and division 2 of article III of chapter 8 of this title
G. Landscaping, Buffering and Perimeter Treatment	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title
H. Lot Coverage—maximum	70 percent	70 percent	70 percent	60 percent of entire development site	60 percent	70 percent, Option 17 or AC *
I. Building, Structure Setbacks (See chapter 15 of this title for accessory buildings and structures)	25' front, 20' rear, 5' side; 15' street side except where side-loaded garages are used, which require a 20' setback; 5' rear and 5' interior side for accessory structures	Base, Option 1, 2 or AC *	Base, Option 1, 2 or AC *	(building envelope separation) Base, Option 1, 2 or AC *	Base, Option 1, 2 or AC *	Match existing average or AC *
J. Building, Structure	40'	Base, Option 5 or	Base, Option 5 or AC *	Base, Option 5 or AC *	Base, Option 5 or AC *	Base, Option 5 or AC *

Height		AC *				

*Alternative Compliance (AC)--See section 24-1034.

(Code 1994, § 18.38.070; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 04, 2008, § 5, 2-5-2008; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-1028. Commercial Districts (C-L Low Intensity; C-H High Intensity)

These districts are intended for areas containing or planned for retail trade and service activities and commercial uses. These uses will serve the needs of residents of the community, as well as the surrounding region. The Commercial Low Intensity District serves as a transitional zone between nearby residential uses and high-intensity commercial areas. Also refer to the table of principal land uses for the C-L and C-H Districts in chapter 8 of this title. All land uses in the C-L District shall operate only between the hours of 6:00 a.m. and 10:00 p.m. as provided in section 24-628(g).

Commercial District Development Standards

Category	*Base Standards*	*Base Standard Options*	*Infill/Redevelop (See chapter 12 of this title and division 7 of article III of chapter 8 of this title)*
A. Land Use	**Residential, **institutional, commercial, industrial allowed uses	**Residential, **institutional, commercial, industrial allowed uses	**Residential, **institutional, commercial, industrial allowed uses
B. Lot Size (may differ for hillside areas (see chapter 14 of this title)	No minimum (may differ for hillside areas)	No minimum (may differ for hillside areas)	No minimum (may differ for hillside areas)
C. Street Width (local commercial streets)	37' pavement, 50' ROW	Base, Option 10 or AC *	Match existing street
D. Open Space - percent of site	Private (on lot): 20 percent	Private (on lot): 20 percent or Option 16	Private (on lot): 20 percent, Option 17 or AC *
E. Sidewalks (local commercial streets)	5' wide attached, both sides	Base or AC *	Match existing sidewalk
F. Parking	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title and division 2 of article III of chapter 8 of this title
G. Landscaping, Buffering and Perimeter Treatment	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title
H. Lot Coverage - max.	80 percent	80 percent	80 percent, Option 17 or AC *
I. Building, Structure Setbacks (See chapter 15 of this title for accessory buildings)	25' for all sides adjacent to streets, interior rear and interior side based on building code requirements	Base, Option 4 or AC *	Base, Option 4 or AC *
J. Building, Structure Height	30' C-L District; 40' C-H District	Base, Option 5, 6 or AC *	Base, Option 5 or 6 or AC *

* Alternative Compliance (AC)--See section 24-1034.

** The base standard or options permitted in the R-H District Development Standards may be used for a residential or institutional land use.

(Code 1994, § 18.38.080; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 04, 2008, § 5, 2-5-2008; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-1029. Industrial Districts (I-L Low Intensity; I-M Medium Intensity; I-H High Intensity)

These districts are intended for areas containing or planned for low-, medium- and high-intensity industrial uses. These districts provide for the development and protection of industrial uses along with commercial support uses. Such uses may be found along arterial streets and highways and rail corridors. Also refer to the table of principal land uses for the I-L, I-M and I-H Districts in chapter 8 of this title.

Industrial District Development Standards

Category	*Base Standards*	*Base Standard Options*	*Infill/Redevelop (See chapter 12 of this title and division 7 of article III of chapter 8 of this title)*
A. Land Use	Institutional, commercial, industrial allowed uses	Institutional, commercial, industrial allowed uses	Institutional, commercial, industrial allowed uses
B. Lot Size (may differ for hillside areas, see chapter 14 of this title)	No minimum (may differ for hillside areas)	No minimum (may differ for hillside areas)	No minimum (may differ for hillside areas)
C. Street Width (local industrial streets)	37' pavement, 50' ROW	Base, Option 10 or AC	Match existing street
D. Open Space--percent of site	Private (on lot): 10 percent	Private (on lot): 10 percent or Option 16	Private (on lot): 10 percent, Option 17 or AC *
E. Sidewalks (local streets)	5' wide attached, both sides	Base, AC *	Match existing sidewalk
F. Parking	See chapter 10 of this title	See chapter 10 of this title	See chapter 10 of this title and division 2 of article III of chapter 8 of this title
G. Landscaping, Buffering and Perimeter Treatment	See chapter 11 of this title	See chapter 11 of this title	See chapter 11 of this title
H. Lot Coverage--max.	90 percent	90 percent	90 percent, Option 17 or AC *
I. Building, Structure Setbacks (See chapter 15 of this title for accessory buildings and structures)	25' for all sides adjacent to streets, interior rear and interior side based on building code requirements	Base, Option 4 or AC *	Base, Option 4 or AC *
J. Building, Structure Height	40' I-L, I-M; 60' I-H	Base, Option 5, 6 or AC *	Base, Option 5 or 6 or AC *

* Alternative Compliance (AC)--See section 24-1034.

(Code 1994, § 18.38.090; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 04, 2008, § 5, 2-5-2008; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-1030. Performance options.

Performance Options

Option # and Description	*Conditions Required to Use This Option (all conditions must be met)*
1. Setbacks: Reduced Setbacks—for single-family, two-family and multifamily dwellings (See also article VI of chapter 8 of this title)	The front setback may be reduced to 10 feet, 5 feet on the interior side, 10 feet on the street side or meet clear vision requirements, whichever is greater, and 5 feet on the rear; and Three feet of additional setback shall be required for all setbacks for every 1 foot of building height in excess of 15 feet; and Parking in the front setback shall be a minimum of 20 feet in length from the back of sidewalk where it directly accesses the street or ROW, and leads directly to an approved parking space, or property accessed from an alley may be within 5 feet of the rear property line where a side-loaded garage is used or parking spaces are substantially parallel to said property line; and Streets on which lots front shall be designed as a boulevard or reduced width street, with parkway, sidewalks and guest parking adjusted according to the requirements of the particular street width option chosen.
2. Setbacks: Zero Lot Line Side Setbacks--for single-family and two-family dwellings	The interior side setback may be reduced to zero feet if the other interior side setback for each dwelling is at least 10 feet and the dwellings are not attached; and Clear vision requirements shall be met on all corner lots; and A maintenance easement shall be granted.
3. Setbacks: Variable Setbacks--for mobile home communities (See also section 24-1176)	Minimum 6-foot separations shall be provided between all mobile home units, in all directions, provided that mobile homes shall be constructed of materials with 1-hour fire rating, separated by a 1-hour fire-rated barrier, or fully automatic fire sprinkler systems are installed; and no openings shall be directly across from mobile homes that are less than 15 feet apart.
4. Setbacks: Reduced Front Setbacks – for commercial uses oriented toward the street	a. The front setback may be reduced to 10 feet if the building is no higher than 20 feet, has a main building entrance and direct pedestrian access from the front entrance of the building to the public sidewalk along the street; and b. Additional front setback shall be required for buildings over 20 feet in height, at a rate of 3 feet of setback for every 1 foot of building height; and c. No parking shall be located between the building and the street toward which the building is oriented.
5. Height: Height Increased Based on Setbacks--for all land uses	Three feet of additional setback shall be required along all yards, for every 1 foot of additional building or structure height over the maximum height permitted in the applicable zoning district, for an additional height of 5 feet.

6. Height: Height Increased Based on Site Amenities--for commercial and industrial uses	Two feet of additional height over the maximum permitted height in the applicable zoning district shall be permitted, to a maximum additional height of 10 feet for every 1 percent of project cost spent on project amenities not otherwise required, including, but not limited to, outdoor plazas, public art for use on- or off-site, acquisition of public open space, incorporation of entryway design onto site, or additional open space being provided on the site. Approval of such amenities for additional height shall be by the community development director, in consultation with the administrative review team.
7. Single point of access: Fire Sprinkler Systems--for more than 25 dwelling units on a single point of access	A maximum of 50 dwelling units may be approved by the fire authority with a single point of access, provided that all dwelling units on the single point of access have a fully automatic sprinkler system installed.
Street width and sidewalk options: The street width and sidewalk options on the following pages are intended to offer alternative street designs for local streets, while maintaining safe access for the daily use of the streets by area residents driving to and from their homes and for emergency service vehicles. Street width and sidewalk options may be used for public or private streets.	
The use of street width and sidewalk options for a particular local street shall be considered on an individual basis and consider connectivity of the street to other streets of a higher classification, snow route designation and emergency access corridors. city-approved traffic-calming measures as a road design element may be employed to satisfy the city's interest in safe and effective travel routes.	
The conditions of each option must be met in order to use a reduced width design. Designated street or sidewalk systems may not be interrupted and logical connections to and with surrounding development must be provided.	
8. Local alley width: Alley 16 feet of pavement (residential) or 18 feet of pavement (nonresidential), no parking on alley, 20-foot total ROW	All dwellings shall have parking and access only from alley (no vehicular access from street front of lot), with one access point to the alley, per lot, not to exceed 20 feet in width.
9. Sidewalks: No sidewalks along local streets--mobile home communities	a. Six-foot sidewalk shall be provided in open space extending throughout the mobile home community, with pedestrian connections made to the public sidewalk system; b. Sidewalk shall provide a connection to all mobile homes within the development; and c. The amount of required open space for the community shall be increased by 5 percent.
10. Minor collector median: Boulevard with 11' lane on either side of 14' median, 6' bike lanes on both sides of street, detached 5' sidewalks	a. Developer shall provide and install "no parking" signage on both sides of street, as determined by the city; and b. Landscaped parkway, 7 feet in width (6 feet in width at intersections), meeting city parkway standards, shall be installed by developer adjacent to the sidewalk and a mechanism for maintaining parkway shall be established by developer and approved by city; and c. Guest parking shall be provided within 150 feet of dwelling units facing the street at a rate of 4 spaces per dwelling unit (may count driveway space toward meeting guest parking spaces); and d. Detached sidewalk 5 feet in width shall be installed by developer along both sides of street.

11. Local median: Boulevard with 10' travel aisle on either side of 14' median, on-street 8-foot parking lane on both sides, 5-foot detached sidewalks on either side; 80-foot total ROW.	a. Landscaped boulevard median, a minimum of 14 feet in width, meeting city boulevard median standards, shall be installed by developer and a mechanism for maintaining boulevard median shall be established by developer and approved by city; b. Landscaped parkway, 8 feet in width, meeting city parkway standards, shall be installed by developer adjacent to the sidewalk and a mechanism for maintaining parkway shall be established by developer and approved by city; and c. Detached sidewalks, 5 feet in width and vertical curb shall be installed by developer along both sides of street.
12. LOCAL: Reduced width to 20 feet (10-foot travel lanes, 5-foot detached sidewalk on each side, 50-foot total ROW) (See Figure 24-6)	a. Developer shall provide and install "no parking" signage on both sides of street, as determined by the city; and b. Landscaped parkway, 7 feet in width, meeting city parkway standards, shall be installed by developer adjacent to the sidewalk and a mechanism for maintaining parkway shall be established by developer and approved by city; and c. Guest parking shall be provided within 150 feet of dwelling units facing the street at a rate of 4 spaces per dwelling unit (may count driveway space toward meeting guest parking spaces); and d. Detached sidewalk, 5 feet in width shall be installed by developer along both sides of street.
13. Local: Reduced width to 28 feet, parking on one side of street (10-foot travel aisles, 8-foot parking aisles on one side of street), 55-foot total ROW	a. Landscaped parkway, a minimum of 7 feet in width on one side and 6 feet in width on the other side (the side with the parking), meeting city parkway standards, shall be installed by developer along both sides of street and a mechanism for maintaining parkway shall be established by developer and approved by city; and b. Detached sidewalks, 5 feet in width shall be installed by developer along both sides of street; and c. Developer shall provide and install "no parking" signage on one side of street, as determined by the city.
14. Open space: Reduced--for cluster development, building envelopes, townhouse development, multifamily development and mobile home communities	The amount of required open space in a multifamily development shall be reduced by 1 percent for every recreational amenity provided, as listed in section 24-1061(e), to a maximum reduction of 5 percent in the open space.
15. Open space: Reduced based on affordability--for multifamily developments	a. The amount of required open space in a multifamily development shall be reduced to 25 percent for providing at least 25 percent of the dwelling units for persons earning 80 percent or less of Area Median Income (AMI); and b. The developer shall establish a written agreement, subject to approval by the city, to maintain rents for at least a 20-year period.
16. Recreational amenity or open space: Reduced for multifamily; landscaping or open space reduced for commercial and industrial developments	The number of required recreational amenities or the amount of required open space in a multifamily development, or the amount of required landscaping or open space in a commercial or industrial development may be reduced by the provision of public art in the development, upon approval by the community development

	department and the Greeley Art Commission, upon a finding that the work of art provides an equivalent benefit to the development.
17. Redevelopment district performance options	See section 24-883, Redevelopment District performance options.
Alternative compliance	See section 24-1034, Alternative Compliance.

[GRAPHIC - Figure 24-6: Reduced street width option (20')]

(Code 1994, § 18.38.100; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 04, 2008, § 5, 2-5-2008; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-1031. H-A Holding Agriculture District.

(a) This district is for those properties which have been annexed to the city and are either being used for agricultural purposes and/or which have no future land use proposed at the time of annexation and are in a transitional stage with regard to their ultimate development. Also refer to the table of principal land uses for the H-A District in chapter 8 of this title.

H-A District Development Standards

Category	*Base Standard*
Land Use	Single-family, farming, oil and gas operations
Lot Size--minimum	40 acres
Building, Structure Height	30' for residential buildings; 60' for agricultural buildings or structures
Setbacks	25' front, 20' rear, 5' side; 15' street side; 5' rear for accessory structures
Parking	See chapter 10 of this title

(b) H-A District requirements:

(1) One single-family dwelling shall be permitted per 40-acre lot.

(2) A mobile home may be permitted in lieu of a single-family dwelling for residential purposes, as long as the property remains in the H-A District and is subject to all applicable building code provisions. All mobile homes shall be removed from the property within five years from the date of annexation or at the time of development, whichever occurs first.

(3) Existing direct access from county roads shall be permitted to continue until such time as the area redevelops, which shall then require all access to be taken from local streets and not county roads or arterial streets.

(Code 1994, § 18.38.110; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1032. Conservation District.

(a) This district is intended for areas containing commercial mineral deposits, the floodway, farming, parks and permanent open space. Also refer to the table of principal land uses for the Conservation District in chapter 8 of this title.

C-D Conservation District Development Standards

Category	*Base Standards*
Land Use	Mineral extraction, parks, open space, farming, oil and gas

Parking	See chapter 10 of this title
Sidewalks	Match existing sidewalk

(b) Purpose and intent. The Conservation District is intended to provide a zoning classification for commercial mineral deposits, the floodway, farming, parks and permanent open space. It is the intent of the Conservation District, with respect to the floodway, to comply with all applicable flood hazard reduction provisions of article II of this chapter.

(c) All land or lots within the city which are subject to subsection (b) of this section are more particularly described in the maps and studies referred to in article II of this chapter.

(d) It is the intent of the Conservation District, with respect to commercial mineral deposits, to:

(1) Protect and administer mineral resource areas in such a manner as to permit the extraction and exploration of minerals, unless extraction and exploration would cause significant danger to public health and safety;

(2) Permit development in mineral resource areas which will not interfere with the extraction and exploration of minerals;

(3) Administer areas containing only sand, gravel or quarry aggregate used for construction purposes with the aid of the state geological survey, as provided in C.R.S. § 34-1-301, et seq., and in accordance with the provisions of C.R.S. § 34-1-301, et seq.;

(4) Accomplish extraction and exploration of minerals from any area in a manner which causes the least practicable environmental disturbance and reclaim such surface areas disturbed thereby in accordance with the provisions of C.R.S. § 34-32-101, et seq.;

(5) Prevent landslides, floods or erosion due to mineral extraction operations;

(6) Preserve access to and extraction of mineral resources according to a rational plan for extraction of such resources;

(7) Provide, during the mining process and after mining operations have been completed, for the reclamation of land subjected to surface disturbance by mining and thereby conserve natural resources, aid in the protection of wildlife, aquatic, historic and archaeological resources and establish wise, sequential land use;

(8) Extract commercial mineral deposits according to a rational plan, calculated to avoid waste of such deposits and cause the least practicable disruption of the ecology and quality of life of the citizens of the city;

(9) Protect and perpetuate the taxable value of property; and

(10) Protect and promote the health, safety and general welfare of the citizens of the city.

(e) All land or lots within the city which are subject to subsection (d) of this section are identified by the sand, gravel and quarry aggregate resources map of the state geological survey. This map, as amended from time to time, is adopted as the official map to be used by the city in identifying commercial mineral deposits.

(f) All land or lots in the city which are either within a floodway or which contain all or part of a commercial mineral deposit shall be included in the Conservation District pursuant to this chapter.

(g) Uses permitted in the Conservation District shall be as provided on the table of principal land uses in chapter 8 of this title.

(h) Any development which involves the extraction of a commercial mineral deposit within the floodway shall follow the permit process described in article III of chapter 8 of this title, and the administrative official shall notify the appropriate local, state and federal agencies. Any development within the floodway shall have obtained all necessary permits from the federal, state or local agencies from which prior approval is required.

(i) In areas containing all or part of a commercial mineral deposit outside of the floodway and which is identified in article III of chapter 8 of this title, the city council shall consider the following when zoning an area

Conservation District:

(1) The competing values of potential mineral extraction with other forms of development;

(2) The merits of allowing a conflicting land use that might prevent or discourage such extraction in the future;

(3) The limitation of adjacent development when it would interfere with the extraction and exploration of minerals; and

(4) Previous zoning and existing development in the area.

(j) All land or lots within the city which shall be subject to subsections (b) and (d) of this section are more particularly described in the maps and studies referred to in subsections (c) and (e) of this section. Any and all land or lots not so identified in these maps and studies and/or subsequently zoned Conservation District shall not be subject to subsections (b) and (d) of this section.

(k) Buildings and other structures which are in existence and are located in the Conservation District may be maintained as lawful nonconforming land uses and structures, in accordance with chapter 19 of this title.

(l) Lawfully nonconforming mobile homes installed prior to the effective date of the ordinance from which this chapter is derived shall be required to have a permit to locate within the floodplain and shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors.

(m) Mobile homes located in this district shall comply with all provisions of title 22 of this Code.

(n) No commercial mineral deposit shall be extracted unless the extractor, as that term is defined in C.R.S. § 34-1-302, has first obtained a permit from the planning commission and unless all such extraction activities are carried out in compliance with the conditions of that permit.

(o) Any extractor shall be entitled to a permit, as contemplated in subsection (n) of this section, if the extractor obtains planning commission approval under the provisions of the use by special review process in article III of chapter 5 of this title of a plan of excavation prepared by a registered engineer and if any required state or federal permits are approved for a plan for rehabilitation of the excavated area. A permit shall be issued by the planning commission but may be revoked or suspended if the extractor violates the conditions of the permit.

(p) No permit shall be issued until the plan of excavation and the plan for rehabilitation have been reviewed by the planning commission and the commission has concluded that the extraction will not involve an unreasonable disruption of the ecology of the area and the quality of life of the citizens in the neighborhood, and that the plan of rehabilitation is calculated to restore the area to its former or other approved condition.

(q) In addition to the provisions of article III of chapter 5 of this title for uses by special review, the planning commission may condition the granting of permits by:

(1) Imposing reasonable limitations on the hours of the day during which extracting activities can be carried on;

(2) Requiring the extractor to construct fences or other barriers around any pit or other extraction area;

(3) Requiring the extractor to control dust and sand;

(4) Requiring the extractor to show phasing of work areas, including locating over burden piles, sand and gravel for screening of work areas;

(5) Requiring the extractor to use prescribed traffic routes for the transportation of equipment and of extracted minerals;

(6) Requiring the extractor to rehabilitate the area following the extraction of the commercial mineral deposits in a reasonable manner prescribed by the planning commission; and

(7) Requiring the extractor to enter into contracts with the city to ensure compliance with the conditions of the permit.

(r) Permission from the city shall be obtained for construction or development if any such construction or development occurs within any property zoned Conservation District. Any such development shall have obtained

all necessary permits from all applicable local, state and federal agencies from which prior approval is required.

(Code 1994, § 18.38.120; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 3, 2012, § 2, 1-31-2012)

Sec. 24-1033. Planned Unit Development District.

The land uses and standards for the Planned Unit Development District are found in article II of chapter 8 of this title.

(Code 1994, § 18.38.130; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1034. Alternative compliance.

(a) The performance options contained in section 24-1030 are not intended to limit creative solutions. Conditions may exist where strict compliance is impractical or impossible, or where maximum achievement of the city's objectives can only be obtained through alternative compliance. It is not the intent of alternative compliance to modify or reduce requirements of the building or zoning codes, but to provide equivalent standards in a creative way. Alternative compliance may be used for infill sites to propose other types of development, as applicable in the zoning district such as small lot/cluster development, townhouse lots or building envelopes subject to approval under the provisions herein.

(b) Requests for alternative compliance may be accepted for any application to which the requirements of this section apply. Alternative compliance is available as noted on the development standard charts and shall not be available for use on street widths. Requests for alternative compliance shall meet one or more of the following conditions:

(1) Topography, soil, vegetation or other site conditions are such that full compliance is impossible or impractical; or improved environmental quality would result from alternative compliance.

(2) Space limitations, unusually shaped lots and prevailing practices in the surrounding neighborhood may justify alternative compliance for infill sites and for improvements and redevelopment in older neighborhoods.

(3) A change of use on an existing site increases the requirements more than it is feasible to meet and the change meets the intent of this Development Code.

(4) Safety considerations make alternative compliance necessary.

(5) The proposed alternative is aesthetically more pleasing, is a more creating approach, better fits into the context of the area, improves the overall architectural appeal of the area and/or meets or exceeds the design objectives as described in the city's comprehensive plan. Where there is a strong architectural theme established in an area, the proposed alternative shall be consistent with that theme. In an area where there is no established theme, the proposed alternative shall provide an architectural theme that can be used to encourage reinvestment in the area.

(c) Where the matter involves a site within the Redevelopment District or the architectural review standards of section 24-1060, alternative compliance shall be determined by the community development director, whose final decision may also be appealed to the planning commission. In all other cases, the applicant shall present a written request for alternative compliance to the community development director for consideration by the planning commission. Applications for alternative compliance shall include the following information:

(1) Written description of the conditions provided in subsection (b) of this section which apply to the subject property;

(2) Written and graphic illustration of the proposed alternative; and

(3) Other information as may be required by the planning commission to make a thorough evaluation of the proposed alternative.

(d) Upon receipt of a complete application as provided in subsection (c) of this section, the community development director shall furnish the following agencies and offices with a copy of all application materials for review and comment:

(1) Building inspection division.

(2) Public works department.

(3) Fire authority (or other applicable fire district).

(4) Water and sewer department.

(e) If the community development director determines that other agencies and offices may be affected by or interested in the proposed alternative compliance request, the director may furnish the following agencies and offices with a copy of all applications materials for review and comment:

(1) Police department.

(2) City attorney's office.

(3) Public school districts.

(4) State department of transportation.

(5) County planning department.

(6) U.S. post office.

(7) Natural gas companies.

(8) Electric power companies.

(9) Telephone and communication companies.

(10) Ditch and irrigation companies.

(11) Railroad companies.

(12) Cable television companies.

(13) U.S. Army Corps of Engineers.

(14) Greeley-Weld County Airport.

(15) Northern Colorado Water Conservancy District.

(16) Adjacent municipalities.

(17) Other interested agencies and offices.

(f) All such reviewing agencies and offices will have two weeks from the date of distribution of the alternative compliance application to make any objections or comments to the community development director. This time period may be extended to the minimum period needed to complete the review.

(g) After evaluation of the alternative compliance application, the community development director shall schedule a public hearing on the matter before the planning commission on the next open agenda. Notice of the public hearing shall be given as provided for in article II of chapter 5 of this title.

(h) The planning staff shall prepare a report which shall include a summary of all comments received on the alternative compliance application, along with the staff recommendation, which shall be presented to the planning commission. In taking action on an alternative compliance application, the planning commission shall consider the staff report and recommendation, as well as comments received from the applicant and the public. The commission shall consider the following in making a decision to approve, approve with conditions, deny or table the application for future consideration:

(1) The proposed alternative meets one or more of the conditions in subsection (b) of this section; and

(2) The proposed alternative is equal to or better than the performance options available for the particular request.

(i) If the planning commission finds that the provisions in subsection (b) of this section have been met, the commission shall approve the request for alternative compliance. If the commission finds that the provisions in subsection (b) of this section have not been met, the commission shall deny the request for alternative compliance and the applicant may appeal such decision to the city council as provided for in chapter 7 of this title.

(Code 1994, § 18.38.140; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 05, 2010, § 1, 3-23-2010; Ord. No. 22, 2010, § 1, 6-15-2010)

Secs. 24-1035--24-1051. Reserved.

CHAPTER 9. GENERAL PERFORMANCE STANDARDS

Sec. 24-1052. Purpose and intent.

The purpose of these standards is to provide a comprehensive listing of performance standards which will promote functional and well-designed developments and land uses that blend with their surroundings and implement design policies of the city's comprehensive plan.

(Code 1994, § 18.40.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1053. Application.

(a) These standards, if determined to be applicable by the city, shall apply to all existing or proposed land uses or developments for permitted uses, design review uses, uses by special review, subdivisions and planned unit developments and shall supplement other sections in this title which may apply to such applications. The infill standards shall supersede the architectural standards contained in this chapter.

(b) Article III of chapter 8 of this title, overlay districts, chapter 10 of this title, off-street parking and loading standards, chapter 11 of this title, landscaping and buffering standards, chapter 12 of this title, design review performance standards, chapter 13 of this title, areas of ecological significance, chapter 14 of this title, hillside development standards and chapter 15 of this title, accessory and temporary uses, structures and buildings may also apply and should be referred to for additional information and requirements.

(Code 1994, § 18.40.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1054. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arcade means a series of arches supported by piers or columns.

Building bay means any of a number of principal divisions of a wall, roof or other part of a building marked off by vertical or cross-wise supports.

Building plane means a flat or level surface on a building exterior having no depressions or elevations, and where a line joining any two of its points lies wholly on the surface.

Commercial grade equipment means playground and/or picnic/barbeque equipment used and intended for installation in high use areas or public settings, such as parks or other recreational facilities.

Connectivity means the ability to be linked between areas, through vehicular and pedestrian transportation systems, including adjacent and proposed residential neighborhoods and schools, parks, trails, shopping and employment areas.

Cornice means a continuous, molded projection that crowns a wall or other construction or divides it horizontally.

Crushed fines means crushed granite or other similar types of crushed rock, used for the surface of trails.

Fenestration means the design, proportioning and arrangement of windows and other exterior openings of a building.

Front facade means the exterior wall of the principal building that faces the street from which the building takes access or is addressed. Where the front facade includes walls with different setbacks, that portion of a wall that is closest to the front of the lot, exclusive of garage walls, shall be the point used to determine the front facade.

House model means having different or unique identification features to distinguish one house from another through the use of exterior materials, roof lines, architectural style, number of stories, color and/or garage placement.

Micro-commercial land use means small-scale commercial land uses of a personal service nature which are planned and integrated into high density residential or commercial office/employment developments and are intended to serve the residents or employees of these developments.

Mid-range expected service area (MRESA) means the growth area capable of accommodating the estimated increase in development in the city in the next five-year period as budgeted in the city's annually adopted capital improvements plan.

Multi-modal trail means a trail intended for use by different types or modes of transportation, such as pedestrians, bicyclists and/or equestrians.

Neighborhood identity feature means a place for gathering or recreation, or a design feature intended to create a unique character or sense of identity in single-family and two-family residential or mixed-use developments.

Oriented means to locate or place a building or structure in a particular direction on a lot or site which shall generally be parallel to the adjacent street.

Parapet means that portion of an exterior wall that rises above the roof.

Pedestrian plaza means an open space that may be improved, landscaped or paved, usually surrounded by buildings or streets and available for pedestrian use.

Pilaster means a shallow rectangular feature projecting from a wall, having a top and a base and architecturally treated as a column.

Planned center means an area that shares parking access, identity, landscaping and/or common walls, and shall be considered a center regardless of whether parcels have been subdivided or not.

Pocket park means a privately owned and maintained park between one-half and five acres in size, located internal to developments and providing passive or active recreational opportunities for the residents or business employees and customers of the development.

Portico means a porch having a roof supported by columns, often leading to the entrance of a building.

Reflective materials means materials that return light, glare or radiant heat after striking the surface of the material.

Rib means any of several members supporting an arch, defining its surfaces or dividing these surfaces into panels.

Roof-top mechanical equipment means equipment housed on the roof of a building or structure and intended and used for the purposes of heating, cooling, ventilation, communications or other similar systems of or relating to a building or structure.

Scale means the proportional relationship of the size of a building or structure to its surroundings.

(Code 1994, § 18.40.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 45, 2004, § 1, 8-17-2004; Ord. No. 32, 2018, exh. B(18.40.030), 8-7-2018)

Sec. 24-1055. Adequate public facilities and services standards.

To provide for the public health, safety and welfare, it is essential that development occur only when adequate municipal or public facilities and services are available or will be available concurrent with development. Facilities and services are considered available concurrent with development if already in existence or if funds are allocated for facility construction or service implementation in the most current two-year city budget cycle. To ensure such concurrence, the following requirements shall be met for all land use and development applications except as otherwise provided herein:

(1) *General requirements*. Public facilities shall be adequate to serve the new development and to maintain levels of service to existing development as consistent with the following adopted city documents, as may be updated from time to time:

a. 2060 comprehensive plan;

b. Water and sewer master plans;

c. Comprehensive stormwater master plans;

d. Transportation plan;

e. Development fee study;

f. Parks and trails master plan; and

g. Other adopted documents related to city capital improvements.

(2) *Determining adequacy*. Annually, the city will prepare boundary maps that reflect existing and budgeted service areas ~~(See Exhibit X)~~. Individual development projects will be evaluated for adequacy based on the location of the proposed development relative to existing facilities and services, the ability of the proposed development to access those facilities and services and the capacity of existing facilities and services to serve new development while maintaining an acceptable level of service to existing development as determined by the city. Service capacity shall be determined by individual project-specific studies provided by the developer and accepted by the city. A proposed development will generally have adequate public facilities available if the proposed development is within the core portion of the city where such facilities and services already exist or are budgeted for construction in the current two-year budget cycle. Findings of adequacy do not exempt developers from paying standard impact fees. Developers shall pay impact fees for adequate facilities at the time of construction. Adequacy is defined as follows for individual public facilities/services:

a. *Fire*. Fire service for a given proposed development is considered adequate if the proposed development is located within a 1.38-mile radius of an existing, operational fire station. In lieu of an existing master plan for capital improvements related to fire service, this requirement is based on the analysis that one fire station is needed for every 30,000 people generally living in a six square mile area, as applied in the 2060 comprehensive plan. Proposed developments, including land uses that pose a high risk of fire, may be subject to more stringent requirements. City analysis of fire service demand generated by the proposed development and location and capacity of existing fire facilities will be required to make a final adequacy determination. Proposed developments must also be consistent with adopted city documents as described in subsection (1) of this section.

b. *Parks*. Park facilities for a given proposed development are considered adequate if the proposed development is located within a half-mile unobstructed radius of a neighborhood park and within a one-mile unobstructed radius of a community park. An unobstructed radius is one where the park is not separated from the proposed development by an expressway, facility or natural feature. Regional parks, trails, natural areas or sports facilities are not included in the analysis unless they contain facilities equivalent to those available in neighborhood parks. city analysis of park demand generated by the proposed development and existing capacity and location of parks will be required to make a final adequacy determination. Proposed developments must also be consistent with the adopted city documents as described in subsection (1) of this section.

c. *Police*. Police service extends to the city limits and adequacy shall be determined according to call response times relevant to the proposed development location. City analysis of police service demand generated by the proposed development and existing capacity will be required to make a final adequacy determination. Proposed developments must also be consistent with adopted city documents as described in subsection (1) of this section.

d. *Sanitary sewer*. Sewer facilities for a given proposed development are considered adequate if the proposed development is connected to a sewer line that is eight inches or larger in diameter with sufficient capacity as defined by the city. Confirmation of sewer capacity will be required in order to make a final adequacy determination. Proposed developments must also be consistent with adopted city documents as described in subsection (1) of this section.

e. *Water*. Water facilities for a given proposed development are considered adequate if the proposed development is connected to an existing water line that is eight inches or larger in diameter. Confirmation of water supply will be required in order to make a final adequacy determination. Proposed developments must also be consistent with adopted city documents as described in

subsection (1) of this section.

f. *Stormwater*. Stormwater facilities for a given proposed development are generally considered adequate if the site can safely convey stormwater runoff to a regional stormwater detention facility with sufficient capacity as defined by the city. If the city determines that the proposed development cannot safely convey runoff to an adequate stormwater system, adequacy requirements shall be met with detention facilities constructed on site. Project-specific drainage studies will be required to make a final adequacy determination. Proposed developments must also be consistent with adopted city documents as described in subsection (1) of this section.

g. *Transportation*. Transportation facilities to support new development are generally considered adequate if the proposed development is connected to a collector or arterial road or expressway (or will be connected at the time the improved arterial or collector is constructed within the two-year budget cycle) constructed to an acceptable cross-section with sufficient capacity to serve the development as defined by the city. Project-specific traffic studies to be provided by the developer and accepted by the city shall be required in order to make a final adequacy determination. Proposed developments must also be consistent with adopted city documents as described in subsection (1) of this section.

(3) *Achieving adequacy*. In the event of service or infrastructure inadequacies, as a condition of proposed development approval, developers must meet the following requirements regarding basic services, impact fees and connectivity:

a. *Basic services*. The developer shall meet all requirements for basic services associated with the proposed development, including the construction of local streets, water/sewer and stormwater detention where applicable as defined in this Development Code.

b. *Impact fees*. To enable the timely mitigation of project impacts on city service systems, developers shall pay standard impact fees for all facilities or services deemed inadequate, at the time of approval of a subdivision creating buildable single-family residential lots. For the purposes of economic development, commercial or industrial developers may pay standard impact fees for all facilities deemed inadequate at the time of building permit. Impact fees for facilities or services deemed adequate may be paid at time of building permit regardless of land use. Where it has been determined by the city that the intent of this chapter must be achieved by dedication of land for and/or actual construction of fire protection, parks and/or police facilities in lieu of paying impact fees, the city may require the developer to dedicate land and/or construct facilities prior to the issuance of building permits for single-family residential lots. The following standards apply in such a case:

1. *Fire protection*. Depending on the size of the development and the service demand it creates (at the sole determination of the city), the developer shall dedicate land in a quantity and at a location acceptable to the city for a future fire station.

2. *Parks*. Proportionate to the size of the proposed development and the service demand it would create, as defined in the parks and trails master plan, the developer shall either:

(i) Dedicate land in a quantity and location acceptable to the city as follows:

A. Acreage required for dedication is calculated by multiplying the level of service, as defined in the parks and trails master plan, by the projected population of proposed development;

B. Park location is determined by the city.

(ii) Alternatively, the city may allow the developer to dedicate land for and fully construct a neighborhood or community park or construct a park on previously dedicated land. In such cases, the developer has no rights to reimbursement as such dedication/construction is done in lieu of standard impact fees.

3. *Police*. The developer shall pay the cost of upgrading police facilities in a fashion and to a

degree that is at the sole determination of the city at the time of development;

4. *Roads*. In addition to on-site improvements that directly relate to the development, the city may allow the developer to improve an arterial roadway in lieu of paying road impact fees; and

5. *Cost and financing analysis*. In the event the city requires land dedication and/or construction in lieu of impact fees, the developer shall conduct a detailed analysis showing expected costs for installation, operation and maintenance of all applicable facilities and how said costs will be financed. After construction is complete, the developer shall provide documentation of all construction costs, including materials and labor.

c. *Connectivity*. Sanitary sewer, stormwater, transportation and water facilities must connect to existing facilities, as defined below, prior to the issuance of single-family residential building permits. Meeting connectivity requirements for individual public facilities/services as outlined below does not exempt the developer from paying impact fees:

1. *Sanitary sewer*. The developer shall pay the cost of extension to and through the site and connection with an existing sewer line with sufficient capacity, and over-size the extension to meet future needs as determined by the city.

2. *Water*. The developer shall pay either the cost of extension to and through the site to an existing water line and over-sizing the new extension to meet future needs as determined by the city or the cost of over-sizing an existing water line.

3. *Stormwater*. If the city determines that the proposed development can safely convey stormwater runoff to an existing regional stormwater detention facility, the developer shall pay the cost of safely and adequately conveying runoff to that facility. If the city determines that the proposed development cannot safely convey stormwater to such a facility, the developer shall construct on-site detention acceptable to the city.

4. *Transportation*. The developer shall be required to provide access to the site via either a two- or three-lane paved roadway as specified below:

(i) Medium to high impact development that at build-out is estimated to generate 100 or more peak hour trips on a single roadway is subject to the following requirements:

A. The developer shall pay the cost of providing a minimum three-lane paved roadway connected to the nearest city collector, arterial or expressway of acceptable cross-section construction. The developer may meet this requirement by improving an existing roadway or building a new roadway as determined by the city;

B. If the site is accessed by more than one roadway, the roadway that will experience the greatest percentage of site-generated traffic shall be the minimum three-lane paved roadway described above. Improvements may also be required on roadways that will experience lesser percentages of traffic as part of basic off-site services discussed in subsection (3)c.4 of this section; and

C. The developer shall also pay the cost of installing curbs, gutters, sidewalks, traffic control devices and streetlights where applicable.

(ii) Low to medium impact development that at build-out is estimated to generate less than 100 peak hour trips on a single roadway is subject to the following requirements:

A. The developer shall pay the cost of providing a minimum two-lane paved roadway connected to the nearest city collector, arterial or expressway of acceptable cross-section construction. The developer may meet this requirement by improving an existing roadway or building a new roadway as determined by the city;

B. If the site is accessed by more than one roadway, the roadway that will experience the greatest percentage of site-generated traffic shall be the minimum two-lane paved roadway described above. Improvements may also be required on roadways

that will experience lesser percentages of traffic as part of basic off-site services discussed in subsection (3)c.4 of this section; and

C. The developer shall also pay the cost of installing curbs, gutters, sidewalks, traffic control devices and streetlights where applicable.

(iii) Roadway extension size (two or three lanes) and/or extent of additional improvements (curbs, gutters, etc.) will be determined by the city, and will depend on the location of the proposed development and the degree of the impacts (trip generation) identified by a project-specific traffic study provided by the developer and accepted by the city.

(4) *Reimbursement*. The developer may be eligible to recoup some costs associated with capital expenditures discussed above as follows:

a. Within ten years of constructing the infrastructure, the developer may be reimbursed by other new development that directly benefits from the infrastructure improvements for its proportionate share of the extension; and

b. Upon completion, the city may pay the developer for the costs of materials related to over-sizing depending on available city resources.

(5) *Exceptions*. The city council may waive requirements that the developer absorb the development costs identified through the adequacy analyses outlined above, and obligate the city to pay said costs only if all of the following conditions are true:

a. The project meets city economic development goals as defined in chapter 12 of title 6 of this Code;

b. The cost benefit analysis has been prepared by the developer and accepted by the city; and

c. The city council has identified an adequate mechanism for funding said mitigation at the time of development.

(6) *Appeals*. See chapter 7 of this title.

(7) *Public hearings*. Public hearings held by the planning commission and city council shall comply with the provisions of article II of chapter 5 of this title.

(Code 1994, § 18.40.040; Ord. No. 27, 2011, § 1, 9-6-2011)

Sec. 24-1056. Vehicular access and circulation standards.

These standards are intended to ensure that vehicular access and circulation is designed to be safe, efficient, convenient and attractive for use by all modes of transportation, while minimizing excessive pavement.

(1) All land use or development applications shall provide for or accommodate the streets and transportation facilities identified on the city's comprehensive transportation plan which are related to the subject site.

(2) Every use or site shall have access to a public street or right-of-way or an approved private road, court or other area dedicated to public or private use, or common element guaranteeing perpetual access as provided in chapter 4 of this title. Alleys shall not be used as primary access unless approved by the city.

(3) Additional traffic generated by the proposed uses shall be incorporated into the transportation network without creating unacceptable safety or delay problems.

(4) Adequate access to and throughout the site shall be provided for emergency service vehicles as identified in the fire code or otherwise required by law.

(5) The street or roadway pattern shall be designed with regard to topography, existing natural features and function and shall integrate with the existing network of streets or public rights-of-way.

(6) Provision shall be made for the dedication of all rights-of-way needed for the improvement of existing streets, or the construction of new streets identified in the city's adopted transportation plan, except as otherwise agreed to in writing by the city.

(7) Streets stubbed to the boundary of a site by previously approved development plans or existing development shall be incorporated and continued, to the extent practical, to provide for logical, orderly

and convenient movement of vehicular traffic throughout the development, from one neighborhood to the next and to local destinations such as parks, schools and shopping areas.

(8) Commercial and industrial developments shall be designed to minimize the use of residential streets.

(9) No parking shall occur on unpaved surfaces or on open space or landscaped areas.

(10) Unobstructed access to off-street parking areas from an adjacent alley, if approved for use by the city, shall be limited to one access point not to exceed 12 feet in width for the purpose of access from the alley. When possible, access points shall be aligned with an existing access point on the opposite side of the alley.

(11) Circular drives shall be permitted only onto local and minor collector streets and subject to review and approval by the community development and public works departments prior to installation. At least one of the driveway legs shall lead directly to a garage. There shall be 20 feet of clear separation between driveway entrances of the circular drive on a single lot. Access onto the adjacent street shall not be closer than 30 feet to any street intersection. The cumulative total of all driveway entrances/exits shall be no more than 36 feet in width.

(Code 1994, § 18.40.050; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 04, 2008, § 5, 2-5-2008)

Sec. 24-1057. Pedestrian and bicycle access and circulation standards.

These standards are intended to provide for safe, visible and convenient pedestrian and bicycle movement on-site and to provide the opportunity to connect to surrounding areas.

(1) A system of public sidewalks constructed of asphalt or concrete and pedestrian pathways constructed of asphalt or concrete shall be incorporated into the site to move pedestrians throughout the site. The width of sidewalks or pathways internal to the site shall be of sufficient width to accommodate the intended usage.

[GRAPHIC - Figure 24-9. Pedestrian crossings, pavement treatment.]

(2) Sidewalks or pedestrian pathways shall be provided on-site connecting the site and public sidewalks; all principal buildings on the site; parking lots and principal buildings on the site; and, where logical, connections to off-site locations can be made as identified in the city's pedestrian and bicycle route maps in the transportation plan. In no event is placement of a sidewalk or pedestrian pathway intended to displace existing landscaped areas or to duplicate existing pedestrian routes.

(3) Where it is necessary for the primary pedestrian route to cross internal roadways, the pedestrian crossing shall be designed to emphasize and prioritize pedestrian access and safety. Such crossings shall be identified using pavement treatments, signals, lighting, traffic calming techniques, median refuge areas and/or landscaping along with signs and striping.

(4) A system of pathways shall be provided for the use of bicyclists to use throughout and to and from the site. Off-street routes may be combined with pedestrian sidewalks or pathways and where combined shall be a minimum of eight feet wide to accommodate the amount of pedestrian and bicycle traffic volumes expected to use the sidewalks or pathways.

(Code 1994, § 18.40.060; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1058. Utility and service standards.

The following standards are intended to ensure the appropriate location and design of all utility facilities greater than three feet high and/or at least ten square feet in size, which are visible from the adjacent public right-of-way or adjacent property:

(1) Where required, utilities and services shall be of such size, proportion and location to effectively serve their intended purposes.

(2) All utilities, including telephone, cable television and electrical systems, shall be installed underground unless exceptional circumstances prevent underground installation.

[GRAPHIC - Figure 24-10. Utility equipment screen.]

(3) Appurtenances to utility systems which require above-ground installation including utility pedestal boxes and utility meters, or ground-mounted mechanical equipment, such as HVAC equipment, shall be located away from the view of adjacent public rights-of-way where practical and, where visible from the public right-of-way or adjacent property, shall be buffered by a fence, wall or landscaping, or a combination of such methods, and be readily accessible for service and maintenance purposes. Where a wall is used for screening purposes, it shall be designed to be compatible with the related principal structures or buildings on the site, including the use of the same, similar or compatible colors and materials as used on the related principal structures or buildings. Such screen walls shall not be continued for longer than 50 feet without variation or creating the appearance of variation by using changes in height, different material combinations or textures, off-set angles or articulation along the top and/or bottom of the wall. Where posts or columns are used to create variation, they shall protrude a minimum of six inches from the adjacent plane of the wall along the street side. When walls are articulated, consideration should be given to the maintenance of landscaping of the street side of the wall.

(4) All rooftop mechanical equipment and elements, including bracing structures for such equipment, shall be concealed from the view from adjacent public rights-of-way or adjacent properties. Where not practical to screen due to grade changes such as an elevated overpass, rooftop mechanical equipment shall be constructed of nonreflective materials and painted to match the roof or building or match the sky if the equipment is silhouetted. Screen walls may also be required for concealment, depending on the nature of the adjacent roadway or development. Single-family and two-family dwellings and industrial areas where the rooftop mechanical equipment is not visible from adjacent properties zoned other than I-M Industrial Medium Intensity or I-H Industrial High Intensity, or visible from an adjacent public right-of-way, shall be exempt from this provision. Grain elevators shall also be exempt from any screening requirements for rooftop mechanical equipment. The community development director may waive rooftop mechanical equipment screening requirements for property in commercial zones as long as there is no view of the equipment from an adjacent property, nor is the equipment visible from the adjacent public right-of-way or to the public using the subject property, such as from a parking area on site.

(5) A trash receptacle, sufficient in size to accommodate the trash generated by the uses, shall be provided on-site in a location which does not impede pedestrian or vehicular circulation or clear vision zone requirements, is not located in front or side setbacks or visible from streets, excluding alleys, and is accessible to refuse trucks. Such receptacle or a grouping of receptacles which occupies an area in excess of 15 square feet in the aggregate shall be enclosed on at least three sides by a solid wall or fence six feet in height and by a solid gate no less than five feet in height on the fourth side. The wall or fence and the gate shall be architecturally compatible with the buildings which it accompanies using related or similar materials and colors. All trash receptacles shall have lids which shall be kept closed.

[GRAPHIC - Figure 24-11. Trash enclosure]

(Code 1994, § 18.40.070; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1059. Environmental standards.

The following standards are intended to provide uniform environmental performance standards for environmental conditions in recognition that the quality of life in a community is enhanced when free from the nuisances created by these environmental conditions; excessive exposure to such environmental conditions can adversely affect the health, safety and welfare of the citizens of the city; and the establishment and enforcement of reasonable standards is an effective way to regulate such conditions.

(1) *Air quality*. All land uses shall conform to all applicable local, state and federal air quality standards, including, but not limited to, dust, smoke, fumes or gases which are noxious, toxic or corrosive and suspended solid or liquid particles.

(2) *Water quality*. All land uses shall conform to all applicable local, state and federal water quality standards, including, but not limited to, erosion and sedimentation, storm drainage and runoff control, solid wastes and hazardous substances.

(3) *Glare and heat*. All land uses shall be prohibited from emitting heat or heated air which may cause distress, discomfort or injury; or direct glare, including, but not limited to, sources generated by floodlights, spotlights, searchlights, combustion or welding perceptible beyond the property line of the property of origin without the use of instruments. (Also see section 24-1062.)

(4) *Noise*. No person shall cause or allow the emission of noise from any single source which is in excess of the limits described in sections 12-327 through 12-333.

(5) *Vibration*. There shall be no inherent and recurring generated earth vibrations or concussions perceptible without instruments at any point along the property line. Ground vibrations between the hours of 7:00 a.m. and 7:00 p.m. caused by motor vehicles, trains, aircraft, construction activity or oil and gas activity shall be exempt from these standards.

(6) *Odors*. No person shall cause or allow the emission of odorous air contaminants from any single source such as to result in detectable odors which are measured in excess of the limits described in chapter 2 of title 12 of this Code.

(7) *Hazardous materials*.

a. The use or storage of hazardous materials shall comply with all applicable local, state and federal standards.

b. If the proposed use includes the use or storage of hazardous materials, adequate precautions to protect against hazardous materials release shall be provided.

c. Flammable and combustible liquids and gases shall be stored in accordance with the fire code.

(8) *Storage and disposal of waste*. All land uses shall comply with all applicable local, state and federal standards regarding storage and disposal of wastes.

(9) *Electromagnetic interference*. No land use, activity or process shall be conducted which produces electric or magnetic fields which adversely affect public health, safety and welfare, including, but not limited to, interference with normal telephone, radio or television reception off the premises where the activity is conducted.

(10) *Radiation*. Radioactive material and/or emissions shall comply with all applicable local, state and federal standards. Further storage or use of such materials shall be subject to approval by the fire authority.

(11) *Ecological significance*. Conformance with the provisions of chapter 13 of this title, areas of ecological significance.

(Code 1994, § 18.40.080; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1060. Architectural review standards.

The following architectural review standards are intended to improve the appearance of new buildings and structures through the use of creative design and to ensure that new buildings and structures are compatible with existing buildings and structures, as well as the context of the surrounding area. These standards shall apply to all triplex, four-plex, townhome, multifamily, commercial and institutional land uses in new developments, in addition to all other application provisions of this chapter. These standards shall also apply to the C-H Commercial High Intensity and I-L Industrial Low Intensity Districts except when waived by the planning commission. Such waivers shall be considered when the proposed building or structure is located internal to the site and not visible from an adjacent public right-of-way, is not adjacent to residential uses or zones where residential uses are permitted, and where the proposed architecture better fits with the surrounding area. These standards shall also apply to the I-M Industrial Medium Intensity and I-H Industrial High Intensity Districts, except when waived by the community development director, where the sides of a building or structure are not visible from the adjacent public right-of-way, nor visible from adjacent properties zoned other than I-M or I-H. Properties adjacent to C-D Conservation Development District and H-A Holding Agriculture District zoned properties are required to comply with these standards. For the purposes of this section, a side of the building or structure facing a public right-of-way shall be considered visible regardless of landscaping, which may be located between the differing land uses or the right-of-way.

(1) Building design shall contribute to the special or unique characteristics of an area and/or development through the use of predominant building massing and scale, building materials, architectural elements and color palette. Where there is no established or consistent neighborhood or area character or unifying theme, or where the existing character is not desirable to continue, because it does not reflect a design theme consistent with the architectural standards as described in this chapter, the proposed development shall be designed to establish an attractive image and set a standard of quality for future developments and buildings within the area to follow. Greater attention to design shall be required in areas of high visibility, such as long community entryways and arterial and major collector roadways and in special character districts. Design of such areas must be consistent with adopted entryway and special area plans on file in the community development department. Where a portion of a building is visible from the adjacent public right-of-way or an adjacent property, the architectural treatment shall be extended around the visible portions of the building to the extent that an architecturally finished appearance consistent with these standards is achieved.

(2) The design of buildings shall avoid the appearance of a single, large, dominant building mass by using design techniques that include stepping back portions of the building facade, breaking up the mass into smaller elements, and/or using material changes. For building facades or walls which face public rights-of-way or adjacent properties and are in excess of 100 feet in length as measured horizontally, a minimum of 20 percent of the length of the facade or wall shall project or recess at a minimum depth equal to three percent of the length of the facade or wall; or screening of at least 50 percent of the wall area may be provided as an alternative using any required buffering to meet this provision.

(3) Developments with multiple buildings shall include predominant characteristics in each building so that the buildings within the development appear to be part of a cohesive, planned area, yet are not monotonous in design. Predominant characteristics may include use of the same or similar architectural style, materials and colors. If dissimilar materials are proposed, then an evaluation shall be made to determine if site design, building scale, form, color, landscaping, etc., can be used to make the building compatible with its surroundings.

(4) Wall mass shall be proportionate to the area the wall is intended to carry or occupy and shall be designed to avoid blank wall expanses. Openings such as windows and doorways shall create a sense of continuity and rhythm to a building design. Openings or architectural elements simulating fenestration-like features shall occupy at least 20 percent of the wall surface area of the first floor of the front facade and walls adjacent to public rights-of-way, or visible from adjacent properties.

(5) Primary public building entrances shall be clearly defined and recessed, projected or framed by elements such as awnings, arcades or porticos.

(6) Colors shall be used to blend buildings into an area and to unify elements of a development. Color should be drawn from the surrounding area and, if in a newly development area, shall be selected to establish an attractive image and set a standard of quality for future developments and buildings within the area. Monotonous or monochromatic color palettes are strongly discouraged. Accent colors used to call attention to a particular feature or portion of a building, or to form a particular pattern, shall be compatible with predominant building base colors and may be incorporated using such elements as shutters, window mullions, building trim and awnings. Accent colors shall cover no more than five percent of a building facade. Changes in the building base color should occur at a change of building plane.

(7) Where the proposed architecture of a building or structure is the result of a franchise style, prototypical or franchise architectural design, including materials and color, shall be modified if necessary to meet these architectural review standards and set a standard, or contribute to a high level of quality for future developments and buildings within the area. Illumination outlining a building, or translucent awnings intended to function as signage, shall not be permitted as part of a building design.

(8) Reflective materials such as reflective, mirrored, tinted or frosted glass with an opacity of less than 20 percent, as determined by the glass manufacturer, shall not be permitted except on the upper floors of commercial structures and in industrial or employment campuses, and where the area is not intended as an area of pedestrian activity. Where reflective materials are proposed, the city may require the applicant

to provide information that can be used to evaluate whether the use of such materials will create a safety hazard for drivers on area streets.

(9) Required primary exterior building materials shall be brick, stone, integrally tinted and textured masonry block, precast concrete, wood, natural and synthetic stone, stucco and synthetic stucco, and glazing. A minimum of 75 percent of all exterior building walls shall be covered with required primary building materials or other materials approved by the community development director or designee. Metal shall not be used as a primary exterior building material except in the I-M and I-H Zones. Where such buildings in the I-M and I-H Zones are visible from an adjacent collector, arterial or parkway arterial, or are visible from an adjacent nonindustrial use or zone, at least 75 percent of the exterior of the building walls that are visible from the public right-of-way or adjacent use or zone shall be covered with other acceptable primary exterior building materials and shall have the applicable buffer yard installed between the building and public rights-of-way. Metal, including corrugated metal, may be used as an accent material on the primary facade of any commercial or industrial building as long as the amount used does not exceed 20 percent of the area of the primary facade, exclusive of the roof, and it is painted to match or complement the building color scheme. Otherwise, buildings of nonarchitectural metals shall be covered with a veneer that is compatible with other area building exterior finishes. Architectural metals, such as bronze, brass, copper and wrought iron, may be used on the primary facade of any building and may exceed 20 percent of the area of the primary facade. Other materials may be evaluated for use as primary or accent materials by the community development director or designee to determine whether the proposed materials are equal or superior to the required primary building materials and permissible for use. Changes in materials should occur at a change of building plane.

(10) All buildings shall be designed and maintained using the following building elements, with a minimum of one selected from four of the five groupings below:

a. Group 1--exterior wall articulation.

1. Changes in building plane or articulation (recesses, projections) spaced proportionately around the building exterior walls, with recesses and projections as defined in subsection (4) of this section;

2. Buildings bays created by columns, ribs, pilasters or piers or an equivalent element that divides a wall into smaller proportions or segments with elements being at least one foot in width and spaced at intervals of no more than 30 percent of the exterior building walls;

3. Some other architectural feature or treatment which breaks up the exterior horizontal and vertical mass of the building; and

b. Group 2--roof articulation.

1. Changes in roof lines, including the use of stepped cornice parapets, a combination of flat and sloped roofs, or pitched roofs with at least two roof line elevation changes;

2. Some other architectural feature or treatment which breaks up the exterior horizontal and vertical mass of the building; and

c. Group 3--building openings, walkways and entrances.

1. Canopies or awnings over at least 30 percent of the openings of the building;

2. Covered walkways, porticos and/or arcades covering at least 30 percent of the horizontal length of the front facade;

3. Trim boards or lintels, ledges or similar architectural accent features between two inches and six inches in width around all windows and doorways;

4. Raised cornice parapets over entries;

5. Some other architectural feature or treatment which adds definition to the building openings, walkways or entrances; and

d. Group 4--building materials.

1. At least two kinds of materials distinctively different in texture or masonry pattern, with each of the required materials covering at least 25 percent of the exterior walls of the building (see also subsection (11) of this section);
2. A single material as long as design treatments such as different roof lines, number of stories, window and door style and placement, and/or garage placement are used to create an interesting and varied exterior;
3. Brick or stone covering at least 50 percent of the exterior walls of the building; and

e. Group 5--other architectural definition.

1. Overhanging eaves extending at least 18 inches past the supporting walls, or with flat roofs, cornice parapets or capstone finish;
2. Ornamental lighting fixtures (excluding neon) used for all exterior building lighting; or
3. An additional feature which adds architectural definition to the building.

(11) Alternate designs to meet the intent of this section may be reviewed and considered under the provisions for alternative compliance as provided in section 24-1034.

(Code 1994, § 18.40.090; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1061. Site and building design standards.

(a) The following standards are intended to ensure that all elements of a site, including buildings, structures and parking areas, are located on the site in such a way as to provide a cohesive and well-designed site that is compatible with the surrounding neighborhood.

(1) All proposed buildings, structures and parking areas shall be arranged on the site to be consistent with the character of the surrounding area, including maintaining similar building scale, orientation and setbacks.

(2) The site shall be designed to minimize the disturbance of topography, water bodies and other natural features on the site.

(3) Site design and subsequent development shall ensure that precautions have been taken to minimize hazards from irrigation canals, streams or other water bodies on the site.

(4) Buildings shall generally be oriented toward the street or public spaces while service and loading areas on the site shall be located away from the view from public rights-of-way and adjacent residences. Loading and parking areas shall be designed to be sympathetic to or improve upon the design of the conforming uses of the surrounding area, providing good transitions between service areas and other areas on site.

[GRAPHIC - Figure 24-12. Building oriented to street]

(5) If the back or sides of buildings are oriented toward public streets or rights-of-way, building details, landscaping, berming or a combination thereof shall be used to create a level of visual interest which is equal to that of the building front.

(6) Buildings and parking areas shall be arranged on the site to maximize the opportunity for privacy by the residents of the development and those residents adjacent to the site and to minimize on-site conflicts between pedestrians and vehicles.

(7) Where practicable, open space and/or recreational amenities shall be centrally located in proximity and accessible to those residents or occupants which they are intended to serve.

(8) Additions shall be designed to be compatible with the principal building by using similar form and scale, architectural style, materials and colors.

a. For residential uses:

1. The maximum height of an addition shall be limited to 150 percent of the height of the existing

principal structures on the block face. If one or more of the principal structures on the block face is greater than 30 feet in height, the maximum height of an addition shall be limited to the average height of the existing principal structures on the block face.

2. The maximum length and width of an addition shall be limited to 150 percent of the average length and width of perimeter walls of the existing principal structures on the block face. If the subject block face is vacant, or if the street separating two block faces which are opposite from one another is a local street or minor collector, the block face on the opposite side of the street shall also be used to determine average height, wall length and width of an addition. Such additions and the point of attachment thereof shall constitute a minimum of 20 percent of the circumference of the exterior walls of the addition.

[GRAPHIC - Figure 24-13. Compatible addition]

b. Additions to commercial and industrial buildings shall be limited to the maximum height permitted in the particular zoning district and shall not be required to have a minimum point of attachment.

(9) Accessory buildings and structures which require a building permit shall be designed to be compatible with principal buildings and structures by using similar form and scale, massing, architectural style, materials and colors. Accessory buildings and structures shall not exceed the height of the principal building or structure and 60 percent of the footprint of the principal building or structure on the site, including attached garage area, except as provided in section 24-1264(1).

(10) If the site contains a locally designated historic landmark, the site and building design shall provide for the protection of the historical and architectural value of the landmark. The site and building design for locally designated landmarks shall also be subject to the review and require approval of the designating agency.

(11) If the site is found to contain cultural or archaeological resources, including, but not limited to, artifacts of human, animal or plant activity, such resources shall be preserved to the greatest extent practicable as determined by the Colorado Historical Society, and the proposed development shall be designed around such resources so they are not damaged before or during construction.

(12) A neighborhood identity feature shall be provided within all single-family and two-family residential or mixed-use developments as shown in the chart in subsection (b) of this section as a place for gathering, recreation or a design feature intended to create a unique character or sense of identity. Identity features may include a pocket park, trail system, pedestrian plaza or courtyard, community building or garden, artwork such as a sculpture, water feature, foundation playground or picnic/barbeque area, signage, fencing, landscaping and/or other aspects of a required perimeter treatment if substantially enhanced in their design. Except as otherwise provided herein, no identity feature credit shall be given for items that are required by other provisions of this Development Code, such as landscaping or perimeter treatment. A mechanism shall be defined and established by the developer to ensure perpetual maintenance of all neighborhood identity features. Where such mechanism involves a homeowners' association, there shall be clear language provided on the subdivision plan, within the development agreement, and any other related documents provided to lot owners that homeowners are individually liable and subject to property liens if such associations do not perform obligated functions as defined.

(b) Neighborhood identity feature chart. Where the number of acres and the number of dwelling units proposed in a development results in two different numbers of required identity features, the larger number of required identity features shall be used.

Identity Feature Chart

Size of Residential or Mixed-Use Development (residential acreage, dwelling units)--applies to single-family, two-family and mixed-use developments	*Number of Required Features*
Under 5 acres or up to 20 dwelling units	none

5--10 acres or 21--50 dwelling units	1
11--50 acres or 51--150 dwelling units	2
51--100 acres or 151--300 dwelling units	3
over 100 acres or over 301 dwelling units	4

(1) Credit shall be given for identity features as follows:

a. A system of trails throughout the entire development shall count as one identity feature. Trails shall be designed to provide interesting and distinct areas for walking, bicycling and/or riding in areas separate from and in addition to traditional sidewalks. Trails shall be designed and constructed using one of the following designs appropriate for the location as determined by the community development director or designee:

1. Ten-foot-wide paved multi-modal trail;
2. Eight-foot-wide paved trail or as per the parks master plan, whichever is greater; or
3. Eight-foot-wide crusher fines trail with collared edges, or as per the parks master plan, whichever is greater.

b. A pocket park, one-half acre to five acres in size, shall count as one identity feature.

c. A water feature, fountain or artwork such as a sculpture shall count as at least one-half identity feature.

d. Playgrounds with commercial grade equipment, picnic/barbeque areas with commercial grade equipment, or court games (tennis, volleyball or basketball) at least 1,000 square feet in size shall each count as one identity feature.

e. Plazas, courtyards or community gardens with irrigation systems and collars to define garden edges, which cover at least 1,000 square feet in size shall each count as one identity feature.

f. A community building at least 2,000 square feet in size shall count as two identity features. An in-the-ground swimming pool at least 20 feet by 40 feet in size shall count as two identity features.

g. A unified and creating signage or monumentation system beyond simple identification shall count as one-half identity feature. The monument or base on which signage is located shall be constructed of stone, brick, stucco or wrought iron. Wood may be used as a nonprimary material for signs. For the purposes of this subsection, the sign monument or base shall not be counted for determining sign allowance. Signage shall be sympathetic to other entryway features.

h. An integrated entryway system, including retaining walls, walls, landscaped area, medians, lighting and/or street signs shall count as one-half identity feature.

i. A required buffer yard treatment that is increased by at least one level (i.e., if a buffer yard B is required, then increasing the buffer yard level to a C buffer yard), at least the base standard width for the increased buffer yard shall count as one-half identity feature for every one-quarter mile of increased buffer yard.

j. Additional landscaped area planted with no less than 75 percent living materials having year-round appeal and a proportionate blend of trees, shrubs and ground cover shall count as one-half identity feature for every 2,000 square feet of landscaped area.

k. The first one-quarter mile of fencing or walls shall count as one-half identity feature and each additional one-quarter mile of fencing or walls shall count as an additional one-half identity feature. The design of fencing or walls shall be substantially enhanced over traditional privacy fencing and may include masonry, brick, wrought iron and/or unique alignments such as serpentine, off-sets, sculptural effects and/or more frequent placement of columns or posts. Fencing and walls of vinyl or wood as the primary material shall include a top and bottom decorative rail.

l. A detention pond a minimum of 6,000 square feet in size, with turf, trees, shrubs and other amenities such as benches or picnic tables that do not impede detention capacity, including a permanent irrigation system and higher quality construction materials (i.e., decorative rock for riprap), to be perpetually maintained by the development, shall count as one identity feature.

m. Credit may be provided for other features not included in this list. Such credit shall be based on the determination of the community development director, based on a review of the location, extent, building form, desirability for future residents and variety of amenities proposed, and whose final decision may also be appealed to the planning commission.

(2) The street and roadway system shall provide multiple points of connectivity from the site to the external arterial street system in the one-square-mile section in which the site is located. Street or roadway connections, including through other adjacent developments, that provide a link to the adjacent bordering arterial streets, shall be provided unless unusual topographic features, existing development or a natural area or natural feature precludes such connections from being made. This standard shall apply to sites that are five acres or larger in size. Alternative compliance may be requested for this standard, as provided in section 24-1034.

(3) A detached sidewalk and a landscaped parkway a minimum of six feet in width between the back of curb and the sidewalk shall be provided along all designated major collector, arterial and parkway arterial streets in all new developments containing residential, commercial and institutional land uses. The width of the sidewalk shall be determined based on the classification as described in the public works design manual of the adjacent roadway, but in no case shall it be less than five feet in width. Deciduous shade tree plantings shall be provided in the parkway at the rate of one tree per approximately 35 feet. Tree locations and spacing may be adjusted to allow for existing proposed utilities, curb cuts, street lights or traffic control devices, and in no event shall a tree be planted closer than 35 feet to a corner. The surface of the parkway shall be in turf, except in commercial areas with high pedestrian traffic, where the parkway may be a hard surface such as brick pavers or textured or patterned concrete if appropriate with the overall design of the commercial area. Asphalt shall not be installed in a parkway. Maintenance of trees shall be the responsibility of the adjacent property owner or property owners' association.

(c) In addition to the standards in subsection (a) of this section, the following standards shall apply to developments containing single-family and two-family dwellings:

(1) The following site elements shall be required for all new single-family and two-family dwellings:

a. Driveways shall not exceed 36 feet in width at the curb and property line and shall lead directly to a garage or parking slab behind the property setback. For the purposes of this section, a parking slab shall be considered in the same manner as a garage.

b. Driveways shall cover no more than 50 percent of the front yard setback unless the lot is a cul-de-sac bulb lot, where the coverage may be a maximum of 75 percent and as long as the only hard surface in the front yard setback is the driveway and sidewalk, except as allowed in section 24-1098(10) (second parking space for single-car garage).

(2) The following building elements shall be incorporated into all new single-family and two-family dwellings:

a. All of the lots or building envelopes in subdivisions containing single-family or two-family dwellings shall be oriented so that the front of the dwelling and the primary entrance are oriented toward the street on which the dwelling is addressed. Alternative compliance, as provided in section 24-1034, may be considered if the dwelling has been designed in such a way that creates visual interest on the facades visible from the adjacent streets.

[GRAPHIC - Figure 24-14. Building orientation]

b. Single-family or two-family dwellings shall be placed or constructed on a permanent foundation which shall be attached to the dwelling, and the area of attachment shall be enclosed with the same or compatible material as the principal exterior material of the dwelling. Temporary perimeter

skirting materials shall not be permitted to enclose the area of attachment.

c. The front facade of the dwelling has at least one change of building plane, exclusive of the garage.

d. A mix of exterior materials (excluding trim) shall be used on the front facade, including lap siding with a maximum nine-inch exposed board face, brick, stucco and/or stone, with materials continued down to within nine inches of finish grade on any elevation. Any one material shall be used to cover at least 15 percent of the front facade. A single material such as brick, stucco or lap siding may be used as long as design treatments, such as different roof lines, number of stories, window and door style and placement, and/or discreet garage placement such as detached, below-grade or recessed garages, may be used to create an interesting and varied exterior. When a single material is used, such as brick, accent features such as soffits, gables or similar features may be of wood frame or stucco. Where a masonry veneer of brick or stone is used on the front facade, it may be used for either full wall height or for the lower portion of a wall, such as wainscoting. Where used, brick or stone veneer shall be wrapped around the garage side walls at the same dimension used on the garage openings. At the ends of the front facade, brick or stone veneer shall be wrapped a minimum of two feet onto the sides of the house. The wrapping of brick or stone veneer is generally encouraged to be extended to a natural break in the building plane, to create the appearance of a structural facing. If columns are used, they shall be extended to the top of the wall.

e. Window and doorway openings covering at least 20 percent of any facade facing a public street (exclusive of garage openings and garage area). On the side street facades of corner lots, window and doorway openings may be reduced to ten percent of the side street facade (exclusive of garage openings and garage area).

f. For dwellings with pitched roofs, eaves shall overhang a minimum of nine inches beyond the supporting walls.

g. Subdivisions shall contain a minimum mix if different house models, as defined in the following chart. When the number of house models required by the chart below results in a fractional number, the fractional number shall be rounded up to the nearest whole number.

REQUIRED NUMBER OF HOUSE MODELS

Number of Lots/Dwelling Units	*Required Number of House Models*
2--8	2
9--19	3
20--100	4
Over 100	5

h. No two of the same house model shall be located next to each other, except for two-family dwellings. For two-family dwellings, both units in the same structure may have the same exterior appearance, but each different structure shall be designed to meet the intent of this section by providing different models.

i. A particular house model shall be used for no more than one-third ~~(2/3)~~ of the lots in a development. In some cases, similarity of design may be desirable in single-family and two-family developments due to the size or scale of the development, or the proposed housing unit type. In this case, alternative compliance, as provided for in section 24-1034, may be used to address such development proposals.

j. No more than 60 percent of the ground floor of the front facade shall be occupied by a garage front.

k. Features such as different roof lines, architectural style, number of stories, window and door style and placement, and/or garage placement may also be used to distinguish house models from one

another. The sole use of minor cosmetic changes, such as different paint color, reversing or creating a mirrored image of the exterior architectural elevations or using different brick color, shall not meet the intent of this section.

l. The front entrance to the dwelling shall have either:

1. A covered porch at least six feet by six feet in size; or

2. The front entrance is well-defined with a covered or gabled entry, distinct change in roof line or columns, is recessed at least three feet or has some other significant architectural distinction.

m. Attached garages shall project no more than 12 feet from the roof line adjacent to the living space on the front facade.

n. Alternative compliance, as provided in section 24-1034, may be used to propose alternative designs for single-family and two-family residential development specifically constructed and intended for low- and moderate-income residents by nonprofit housing entities. In proposing such alternative designs, every effort should be made to comply with the design standards of this chapter.

(d) In addition to the standards contained in section 24-1060 and in subsection (b) of this section, the following standards shall apply to townhouse dwellings:

(1) Townhouses shall be independently served by separate utilities and services and, where feasible, shall have one vehicular access to serve the group of attached units.

(2) The primary facade of all buildings containing townhouse dwellings shall be designed to incorporate changes in building or unit plane, height or elements such as balconies, porches, arcades or dormers to lessen the visual impact of the length and mass of the building.

[GRAPHIC - Figure 24-15. Townhouse building with change in building plane]

(3) Garages attached to townhouse dwellings shall be designed and oriented so that they do not dominate the front facade of the building to which they are attached, and to provide variety in the front plane or facade of the building and visual interest on all sides of the garage that are visible from the public right-of-way and adjacent properties. Detached garages for townhouse dwellings shall be designed to be compatible with the related residential structures and shall be designed and oriented to minimize the visual effect of the scale and massing of the garages and create visual interest on all sides of the garage that are visible from the public right-of-way and adjacent properties, through the use of landscaping, berming, architectural features or styles, building materials and/or orientation on the site.

(e) In addition to the standards contained in section 24-1060 and in subsection (b) of this section, the following standards shall apply to multifamily dwellings:

(1) Entrances to all dwelling units shall be visible from parking areas intended to serve the dwellings.

(2) The primary facade of all buildings containing multifamily units shall be designed to incorporate changes in building or unit plane, height or elements such as balconies, porches, arcades or dormers to lessen the visual impact of the length and mass of the building.

(3) Garages attached to multifamily dwellings shall be designed and oriented so that they do not dominate the front facade of the building to which they are attached, and so that they provide variety in the front plane or facade of the building and visual interest on all sides of the garage that are visible from the public right-of-way. Detached garages for townhouse and multifamily dwellings shall be designed to be compatible with the related residential structures and shall be designed and oriented to minimize the visual effect of the scale and massing of the garages and create visual interest on all sides of the garage that are visible from the public right-of-way and adjacent properties, through the use of landscaping, berming, architectural features or styles, building materials and/or orientation on the site.

(4) All multifamily developments shall provide recreational amenities within the development for primary use of the residents of the development and which may include swimming pools; clubhouses or community centers or buildings; playgrounds with play equipment; picnic shelters/barbeque areas; court

game facilities such as tennis, volleyball or basketball; or trail systems not otherwise required as a substitute for sidewalks, based on the following schedule:

Recreational Amenities

No. of Units	*Amenities*
0--11	0
12--50	1
51--100	2
101--200	3
201--300	4
Over 300	Add 1 amenity for each 100 additional units, or fraction thereof

a. Playgrounds with commercial grade equipment, commercial grade picnic/barbeque areas or court games (tennis, volleyball or basketball) at least 1,000 square feet in size shall each count as one recreational amenity.

b. Individual balconies, decks or patio areas that are not intended to be designed to be enclosed, provided for all dwelling units, shall count as one-half recreational amenity. A system of pedestrian trails shall count as one-half recreational amenity.

c. Plazas or atria within a building (excluding hallways) which cover at least 1,000 square feet in size shall each count as one recreational amenity.

d. In-the-ground swimming pools at least 20 feet by 40 feet in size and community buildings at least 2,000 square feet in size shall each count as two recreational amenities.

e. A system of pedestrian trails, excluding required sidewalks, shall count as one-half recreational amenity.

f. Active garden plots in common areas may be counted toward meeting usable open space or recreational amenity requirements as determined by the community development director, based on a review of the extent and location of garden plots, desirability for future residents and variety of amenities proposed.

g. Multifamily developments proposed to be phased shall provide a plan for the proportionate distribution of recreational amenities for the entire development. In no event shall phasing be permitted in such a way that results in a reduced number of recreational amenities for the entire development than is required herein.

(f) In addition to the standards contained in section 24-1060 and in subsection (b) of this section, the following standards shall apply to commercial, institutional and industrial uses:

(1) Exterior architectural elevations, including proposed roof style and pitch, window and door detail, materials and colors, shall be compatible with the character of the surrounding area if there is an established character.

(2) Uses which generate noise or glare, including outdoor vending machines, shall not be located in areas of the site which are visible from any residential land uses.

(3) All sides of all buildings shall include design characteristics and materials consistent with those on the front or primary facade of the building, where visible from the public right-of-way.

(4) Building entrances shall be identifiable and directly accessible from a public sidewalk or sidewalk internal to the site.

(5) Walls in excess of 50 feet in length shall be permitted to be visible from a public right-of-way if a minimum of 20 percent of the length of the wall projects or recesses at a minimum depth equal to three percent of the length of the wall, and a change in materials and texture, or a permanent architectural treatment or feature is provided.

[GRAPHIC - Figure 24-16: Wall projections and recesses]

(g) Alternative compliance as provided in section 24-1034 may be used to address any requirements found in this section.

(Code 1994, § 18.40.100; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-1062. Lighting standards.

The following standards are intended to ensure that the design and placement of exterior lighting provides sufficient illumination for security purposes while not interfering with the safe movement of vehicles on public streets, nor negatively affecting adjacent properties and land uses, while providing adequate on-site lighting. These standards shall not apply to lighting for public streets.

(1) No lighting shall be used in any way which could interfere directly or indirectly with the safe movement of vehicles on public streets, including:

a. Any fixed lighting that is not designed for street illumination that produces light which could interfere with the operation of a vehicle;

b. Any lighting which could be confused with any type of traffic control device, emergency or warning signals; or

c. Any lighting that blinks, flashes, flickers or changes intensity with the exception of temporary holiday displays.

(2) Exterior lighting to meet functional and security needs for the development shall be provided with no light spillage or glare visible at or beyond the property line of the development. Lighting shall be provided at sidewalks or pathways, common areas or facilities, primary building entrances and in parking areas.

(3) Freestanding light fixtures shall not exceed 20 feet in height within 50 feet of any residential zoning district, except as provided in subsection (4) of this section. In all other locations, freestanding light fixtures shall not exceed 30 feet or the height of the principal building, if one exists, whichever is less. The style and materials of light standards and fixtures shall be compatible with the architectural character and materials of buildings on the site. For the purposes of this section, the height of freestanding light fixtures shall be determined by measuring from the adjacent grade at the base of the support to the top of the light fixture.

[GRAPHIC - Figure 24-17: Heights of lighting fixtures.]

(4) Building-mounted light fixtures shall not be attached to a roof, and in no event shall the light fixture be mounted at a height exceeding 30 feet above grade as measured at the base of the subject building. The use of lighting fixtures that are architecturally compatible with the related building is encouraged over the use of wall pack lighting fixtures.

(5) All lights shall be directed downward and the light source shall be shielded so that it will not be visible from any adjacent property except for accent and flagpole lighting which shall be permitted to be directed upward as long as the light source is shielded and not visible from any adjacent property. Fixtures installed under canopies, awnings, overhangs and the like shall be fully recessed.

[GRAPHIC - Figure 24-18: Light directed downward onto site.]

(6) The following chart lists maximum lighting levels for outdoor areas and facilities. These lighting levels are average maintained horizontal levels and shall be measured using a calibrated, color and cosine-corrected portable light meter. The light meter reading shall be taken at a level position not more than

six inches above the ground with the subject light sources on. Lighting shall be measured as used on the site with no artificial manipulation occurring.

MAXIMUM LIGHTING LEVELS

(in footcandles)*

Area	*Residential Zones*	*Commercial and Industrial Zones*
Building exterior	0.5	1.0--5.0
Walks, pathways	0.5	1.0
Parking lots	1.0	2.0
Street or driveway lighting (internal to site)	0.6	1.2
Loading docks	N/A	20.0
Auto sales (outdoor display)	N/A	30.0 average, 60.0 spot location

*Information gathered from Illuminating Engineering Society (IES) Lighting Handbook. One footcandle is equal to one lumen uniformly distributed over an area of one square foot.

(7) No activity shall be conducted within 500 feet of a residential zone which creates glare exceeding one-half footcandle at the property line, except for parking lots, neighborhood recreation and service facilities and streets, which may be illuminated at levels up to one footcandle.

(8) All parking lot lighting fixtures and exterior building floodlights, except those required for security purposes, shall be extinguished within one hour after the end of business hours and remain extinguished until one hour prior to the beginning of business hours. If a portion of a parking lot is offered for use after dark, only that portion shall be lighted.

(9) Lighting within parking structures shall be designed to provide safety and security and be integrated into the architectural character of the structure.

(10) The use of low pressure sodium light fixtures shall be prohibited in the city.

(11) In addition to all other standards herein, the following standards shall apply to the lighting of all outdoor recreational facilities except baseball, softball, soccer, volleyball or football fields; driving ranges; outdoor arenas and amphitheaters:

a. All lighting or illumination units or sources shall be hooded or shielded and directed downward so that they are not visible from any adjacent lot or property; and

b. Lights or illuminating units shall not allow light either directly or through a reflecting device to spill upon any adjacent real property.

(12) In addition to all other standards herein, the following standards shall apply to baseball, softball, soccer, volleyball or football fields; driving ranges; or other field recreation facilities:

a. The height of any light fixture or illumination source shall not exceed 90 feet in height.

b. Individual lighting of 150 watts or greater shall not be used after 11:00 p.m., or within one hour after the event, whichever is later. Exceptions to this section may be granted by the community development director.

(Code 1994, § 18.40.110; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 04, 2008, § 5, 2-5-2008)

Sec. 24-1063. Architectural review process.

(a) Architectural review committee. The architectural review committee shall consist of five members appointed by the planning commission and serve pursuant to the provisions of chapter 19-1 of the Charter, and

perform the duties and functions prescribed in this title. Committee members should have experience in and represent the areas of architecture, construction, engineering, landscape architecture, planning, urban design, real estate or other related fields. Appointment to the committee shall, to the extent feasible, include at least one member representing the construction industry and at least one member representing the field of architecture. In addition, it is desirable to have one committee member representing the general public. A member of a specific board or commission, such as the downtown development authority or historic preservation commission, or a member of a character overlay district, such as the Mercado, may serve in an ex officio capacity to assist the architectural review committee on matters of interest to the group, board or commission.

(b) The applicant for a land use or development application may seek advice or consult with the architectural review committee on matters pertaining to architectural design.

(c) The community development department staff may seek advice or consult with the architectural review committee on matters pertaining to architectural design on land use and development items that are subject to administrative approval.

(d) The planning commission may seek advice or consult with the architectural review committee on matters pertaining to architectural design on land use and development items that are subject to planning commission approval.

(e) The city council may seek advice or consult with the architectural review committee on matters pertaining to architectural design on land use and development items that are subject to city council approval.

(Code 1994, § 18.40.120; Ord. No. 65, 2002, § 1, 12-17-2002)

Secs. 24-1064--24-1094. Reserved.

CHAPTER 10. OFF-STREET PARKING AND LOADING STANDARDS.

Sec. 24-1095. Purpose and intent.

These standards are intended to ensure that off-street parking areas are designed to be safe, accessible, convenient and attractive; reduce traffic congestion and hazards and pedestrian and vehicular conflicts; protect neighborhoods from the effects of vehicular noise and traffic generated by more intense land uses and districts; and provide parking facilities in proportion to the needs generated by varying types of land uses.

(Code 1994, § 18.42.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 40, 2009, § 1, 8-18-2009)

Sec. 24-1096. Application.

Permanently maintained off-street parking spaces, pursuant to the provisions contained herein, shall be provided for every use and structure hereafter commenced, erected or altered, unless otherwise specified herein. Land and uses in General Improvement District No. 1 are exempt from the requirements herein.

(Code 1994, § 18.42.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 40, 2009, § 1, 8-18-2009)

Sec. 24-1097. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

All-weather surface means a ground surface covered with bricks, concrete precast paver units, concrete, asphalt or asphaltic or rubber mixture which may include compacted sand or gravel as an ingredient and which creates a hard surface. A graded natural surface or one covered with rolled stone or overlaid with noncompacted gravel shall not be considered an all-weather surface.

Driveway means an improved concrete or asphalt path, either as one solid pad or two wheel strips, leading directly to one or more city-approved parking spaces constructed with a concrete, asphalt or similar all-weather surface.

Driveway, angled, means a driveway which diverges from the approved driveway access at an angle for the

purpose of creating access to a legal parking space, and which does not increase the width of the existing driveway at the street, curb or sidewalk.

Driveway extension means an area adjacent and parallel to an existing driveway for the purpose of expanding the parking area in front of a garage.

Gross floor area (GFA) means the total area of a building measured by taking the outside dimensions of the building at each floor level, or from the centerlines of walls separating two buildings and excluding areas used exclusively for the service of the building such as mechanical equipment spaces and shafts, elevators, stairways, escalators, ramps, loading docks, cellars, unenclosed porches, attics not used for human occupancy, any floor space in accessory buildings, or areas within the building which are intended for the parking of motor vehicles.

Oversized commercial vehicle means a vehicle weighing at least 8,000 pounds and used in conjunction with a business. Oversized commercial vehicles include, but are not limited to, semi tractors with or without trailers, tow trucks and utility service trucks.

Oversized vehicle means a vehicle exceeding one ton or 2,000 pounds.

Parking means the parking or leaving of an operable, licensed vehicle, current in its registration, for a temporary period.

Parking areas or lots means areas designed, used, required or intended to be used for the parking of motor vehicles, including driveways or accessways in and to such areas, but excluding public streets and rights-of-way.

Parking, shared, means the development and use of parking areas on two or more separate properties for joint parking use by the land uses on those properties.

Parking slab means a paved parking space located off-street and designed to accommodate one or more standard-sized motor vehicles.

Parking space means a space or stall delineated by striping within a parking area established in conformance with this Development Code.

Parking space, storage, means a space for the storage of operable, licensed vehicles, current in registration, including recreational vehicles or equipment, for a period of 30 days or longer.

Parking structure means a parcel of land devoted to a multistory structure for the primary purpose of containing parking spaces.

Parkway means the strip of land located between the sidewalk and curb.

Recreational equipment means equipment intended for outdoor recreational use, including, but not limited to, snowmobiles, jet skis, all-terrain vehicles (ATVs), canoes and boats and including the trailers for transporting such equipment (see also *Recreational equipment, major,* and *Recreational equipment, minor).*

Recreational equipment, major, means boats that exceed 18 feet in length, utility trailers that exceed the dimensions of five feet by eight feet and enclosed utility trailers that exceed the dimensions of five feet by eight feet and are more than three feet in height.

Recreational equipment, minor, means boats that are 18 feet or less in length, utility trailers that are five feet by eight feet in size or less, canoes, snowmobiles, jet skis, all-terrain vehicles (ATVs) and similar small and low-profile outdoor recreational equipment.

Recreational vehicle means a vehicle which is designed, intended and used for the purposes of temporary living accommodation for recreation, camping and travel use, including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes, horse trailers and bus campers. For the purposes of this definition, neither a pop-up trailer nor a truck topper accessory (also known as a camper shell) which is not higher than eight inches above the truck cab when installed shall be considered a recreational vehicle. A horse trailer used primarily for transport of horses and/or livestock to or from the site it is stored upon shall not be considered a recreational vehicle under this definition.

Structure means anything constructed or erected on or in the ground, the use of which requires a more or less permanent location on or in the ground, and, including, but not limited to, walls, retaining walls, fences, parking

lots, parking slabs and oil and gas production facilities.

Yard, front or street side, means that portion of a lot between the primary structure and right-of-way.

(Code 1994, § 18.42.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 6, 2004, § 1, 2-17-2004; Ord. No. 40, 2009, § 1, 8-18-2009)

Sec. 24-1098. General provisions.

The following general provisions shall apply:

(1) No structure or use shall be permitted, constructed or occupied unless off-street parking spaces are provided in accordance with the provisions herein unless otherwise authorized within division 3 of article III of chapter 8 of this title, or chapter 19 of this title.

(2) When a structure is enlarged or increased, or when a change in use results in physical changes or improvements to the site, including, but not limited to, changes in access, circulation, parking and building additions, the required number of parking spaces shall be provided. All new parking spaces and loading areas shall be paved and constructed meeting all applicable provisions in chapter 10 of this title regarding off-street parking, loading, landscaping and buffering. Landscaping upgrades to the existing parking area shall be provided for parking areas with ten or more spaces, in accordance with the provisions of chapter 11 of this title.

(3) Parking areas or lots shall be designed and located so that vehicular and pedestrian access and facilities are not impeded, an adequate number of spaces are provided for the uses served by the parking area, surrounding uses are not negatively impacted by the parking area and the parking area does not create traffic congestion on adjacent areas or sites. Required parking spaces shall not be converted to other uses or for other purposes.

(4) Where feasible, surface parking areas shall be designed to use shared access drives with adjacent property with similar land uses to reduce the number of conflict points with vehicular and pedestrian traffic.

(5) Guest parking for residential and mixed land uses shall be provided at the required number of spaces and designated on the site plan as guest parking to ensure that adequate spaces are provided for both residents and guests in convenient and practical locations.

(6) Off-street parking and maneuvering spaces shall be provided entirely on the lot for which the related land use or structure is located unless the adjacent lot is held by the same ownership and the lots have been replatted in accordance with chapter 4 of this title, in which case parking required for both lots may be combined and located on one lot or have a legal access easement or agreement. Off-street parking spaces in parking lots within 250 feet of the subject use or structure, measured along a curb or alley, may be used subject to approval by the city, of at least a 20-year written agreement between the city and the property owners for the use of said parking and recorded with the county clerk and recorder. In no event shall said parking spaces be located on a lot containing a single-family dwelling or a vacant lot zoned for residential use, unless authorized by the planning commission as a use by special review. With the exception of the parking reduction provisions in section 24-1103, the amount of parking provided in a collective or combined parking area shall not be less than the amount required individually for each use or lot.

(7) In no event shall off-street parking or product or service display areas be located within the required front or side-on street setback, or other non-hard surfaced areas, except as expressly authorized in this Development Code.

(8) The owner of off-street parking for a use other than single-family or two-family dwellings shall:

a. Maintain the parking surface;

b. Maintain wheel guards and barriers where required as provided in section 24-1102(b); and

c. Maintain nonpermanent parking space markings such as paint so that clear identification of each parking space is apparent.

(9) Single- and two-family parking.

a. Required off-street parking for single-family and two-family dwellings, excluding guest parking, shall be outside of front yards, except as provided herein. A paved driveway leading to a legally situated parking space may be counted toward the second required space for single-family dwellings which have a single-car garage and for guest parking for all single-family and two-family uses, as long as the space is the full length of 19 feet and is not encroaching on the adjacent sidewalk. The parking of passenger vehicles is allowed in driveways but may not be used to meet required parking standards of this title. A design review for excess passenger vehicle parking in front and side yards may be granted under the following circumstances:

   1. The original construction of the single- or two-family dwelling provided only a single-car garage and driveway, or no garage, for each dwelling unit;
   2. The additional parking slab is the minimum size necessary to park a standard size automobile;
   3. The additional parking slab can be placed reasonably adjacent to the existing driveway;
   4. If no driveway currently exists and no other reasonable accommodation can be made elsewhere on the site, such as parking off of an alley, the driveway can be placed perpendicular to the street and without interfering with any on-site walkways or sidewalks;
   5. The total front yard parking area including the additional parking slab does not exceed:
      (i) For lots not fronting on a cul-de-sac, the lesser of either 50 percent of the linear lot frontage or cover 50 percent of the front yard;
      (ii) For lots fronting on a cul-de-sac, the lesser of either 75 percent of the linear lot frontage or cover 75 percent of the front yard;
   6. The total driveway width of a continuous driveway, or the combination of all access points of a circular driveway, does not exceed 36 feet as measured at the street, curb or public sidewalk;
   7. The additional parking slab is parallel to the existing driveway and perpendicular to or at no greater than a 45-degree angle to the street from which it is accessed;
   8. The required curb cut from the adjacent street has been permitted by the department of public works;
   9. The department of public works has determined that the additional paved parking slab will not detrimentally impact drainage on the subject lot or adjacent lots; and
   10. The applicant has applied for and obtained all related construction and zoning permits from the city for the intended construction.

b. In no event shall the additional parking slab:

   1. Replace another parking space which has been used to meet the Code requirements (i.e., conversion of a garage into living space), unless the replacement is in conjunction with a city-approved redevelopment plan for the entire property;
   2. Be used for the parking of work vehicles or for the storage parking of recreational vehicles or equipment except as otherwise permitted in this title; or
   3. Be placed in the parkway area of a lot.

c. A driveway leading to an approved passenger vehicle parking space shall be paved with concrete or asphalt.

d. All parking spaces shall be paved, except that an all-weather surface parking space is allowed for passenger vehicles in interior side and rear lots, provided that a concrete or asphalt driveway leads to the space. See Figure 18.42-1 below. In no event is an all-weather parking space allowed in front or street side setbacks.

e. For parking in interior side setbacks, in no event shall paving be closer than three feet from the property line to provide adequate drainage between properties. A passenger vehicle or recreational vehicle may be parked up to the interior side property line if on gravel or an all-weather surface.

For additional recreational vehicle standards, see section 24-1105. See Figure 18.42-1 below.

[GRAPHIC - Figure 18.42-1]

(10) Parking lot landscaping standards shall be as provided in chapter 11 of this title.

(11) Large surface parking lots shall be visually and functionally segmented into multiple smaller lots, with each segment containing a maximum of 200 parking spaces. Each segment shall be landscaped and designed in accordance with the provisions of this chapter.

(12) A flatwork permit is required prior to the installation of any paving.

(13) All concrete and asphalt driveways and parking slabs must meet required setbacks with the following exceptions:

a. An angled driveway and associated parking slab may extend to within three feet of an interior side property line or to within ten feet of a street side property line, unless the street side yard is adjacent to the front yard of the adjacent property;

b. A driveway extension may extend to within three feet of an interior side property line or to within ten feet of a street side property line, unless the street side yard is adjacent to the front yard of the adjacent property.

(14) Neither the parkway nor public sidewalk area is allowed for parking.

(Code 1994, § 18.42.040; Ord. No. 22, 2010, § 1, 6-15-2010; Ord. No. 40, 2009, § 1, 8-18-2009; Ord. No. 6, 2004, § 1, 2-17-2004; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1099. Off-street parking requirements.

(a) The off-street parking requirements in the parking requirements table have been established to meet the expected typical parking demand for uses identified in the table of principal land uses in chapter 8 of this title. In cases not specifically addressed by these requirements, the community development director shall be authorized to determine parking requirements using the parking requirements table as a guide.

(b) Off-street parking spaces shall be provided at the rate specified for the land uses enumerated in the parking requirements table and shall be provided for all land uses which are located within a particular building or structure or on a lot. If two or more uses are located within a building or structure or on a lot, the off-street parking requirements for all such uses shall be met by combining the number of spaces required for the individual uses on the table except as may be provided in shared parking situations in section 24-1103.

(c) When the number of parking spaces required by this table results in a fractional space, any fraction shall be counted as one additional parking space.

(d) Those land uses enumerated in chapter 15 of this title as accessory or temporary uses shall provide parking as prescribed in chapter 15 of this title and herein.

(e) The maximum number of parking spaces for nonresidential uses shall not exceed 125 percent of the number of spaces required by the parking requirements table, except as provided in subsections (e)(1) and (2) of this section. The maximum parking standard shall not apply to bicycle parking spaces, parking lots as a principal use and public and private parking garages, or as provided below. The community development director or designee may approve increasing the maximum number of parking spaces for nonresidential uses under the following provisions:

(1) That unique or special circumstances relate to the land uses and site; and

(2) Additional parking lot landscaping shall be provided on a proportional basis to the amount of additional parking to be added. For every one percent of additional parking spaces, an additional two percent of landscaping, based upon the amount of landscaping required in the interior of parking lots, shall be provided and distributed around the perimeter and on the interior of the parking area. For example, a parking lot covering 3,000 square feet would be required to have five percent, or 150 square feet, in landscaped area. Increasing the amount of parking by 50 percent means that the landscaped area must increase by 100 percent (double in size), to 300 square feet.

(f) For the purposes of the parking requirements table, off-street parking requirements based on the number of employees shall be determined using the maximum number of employees assigned to the largest shift.

(g) Minimum parking requirements table.

Table ~~18.42-1~~ 24-1099.1. Minimum Parking Requirements Table

Land Use Category	*Land Use*	*Required Parking Spaces*
Residential	Single-family detached	2 spaces per unit
	Single-family attached	2 spaces per unit
	Multifamily dwellings (also add required guest parking, found under "guest parking")	
	Efficiency units	1.25 spaces per unit
	One-bedroom units	1.5 spaces per unit
	Two-bedroom units	1.75 spaces per unit
	Three-bedroom units	2 spaces per unit
	Four + bedroom units	3 spaces per unit
	Secondary dwelling	1 space per bedroom
	Boarding and rooming houses, dormitories, fraternities and sororities	0.5 space per bed, or 1 space per bedroom, whichever is greater
	Board and care homes	2 spaces for primary residence
	Farming	2 spaces for residence
	Group homes (up to 8 residents)	2 spaces per group home, plus 2 spaces per 3 employees
	Guest parking (for multifamily units, to be provided in addition to required resident parking)	1 space per 10 required resident parking spaces
	Guest parking (for single-family dwellings with no on-street parking) --to be provided in addition to required resident parking	4 spaces per dwelling unit (may use driveway to meet guest parking requirements as long as at least a 2-car garage is provided
	Guest parking (for mobile home communities and parks)--to be provided in addition to required resident parking	0.75 space per dwelling unit
	Home occupations	2 spaces for primary residence, plus as otherwise required
	Mixed-use	As required for both uses
	Mobile homes	2 spaces per unit
Institutional	Childcare centers, preschools	1 space per 8 students, plus 1 space per employee
	Churches	1 space per 4 seats
	Correctional, jail, detention facilities	1 space per employee
	Emergency shelters, missions	1 space per 5 beds, plus 1 space per employee

	Hospitals	1 space per 2 beds, plus 2 spaces per 3 employees on the major shift
	Intermediate and long-term care, rehab centers, congregate care, assisted-living units, group homes with more than 8 residents (transportation-dependent residents)	1 space per employee, plus 1 space per 4 beds
	Group homes with more than 8 residents (not transportation-dependent)	1 space per employee, plus 1 space per 2 beds
	Libraries, museums, public or quasi-public buildings	1 space per 300 sq. ft. GFA
	Police and fire stations, ambulance storage	1 space per employee, plus 1 space per company vehicle
	Recreation (community rec. buildings)	1 space per 200 sq. ft. GFA
	Recreation (parks, playing fields--excluding pocket parks)	Neighborhood parks over 10 acres in size or where designed for playing fields--1 space per 3 users at maximum capacity
	Schools--adult (business, trade)	1 space per 150 sq. ft. GFA
	Schools (elementary, middle or junior high)	2 spaces per classroom; if school includes driving-age students, plus 1 space per 10 students
	Schools (high school)	1 space per 4 students, plus 1 space per employee
	Universities, colleges	1 space per 150 sq. ft. GFA of classroom space
Commercial	Art and dance studios, photo studies, galleries	1 space per 2 students or visitors at maximum capacity, plus 2 spaces per 3 employees
	Assembly, event and conference centers	1 space per 4 persons at maximum occupancy
	Auction houses (excluding livestock auctions)	1 space per 2 seats at maximum capacity, plus 2 spaces per 3 employees
	Auto, truck, boat, RV, motorcycle repair, sales and rental	1 space per 400 sq. ft. GFA of showroom, office, vehicle repair and parts sales areas, plus 1 space per 1,000 sq. ft. GA outdoor display
	Banks, savings and loans, financial institutions	1 space per 300 sq. ft. GFA, plus 1 lane for each drive-up window and/or ATM with 5 stacking spaces per lane
	Bars, taverns, nightclubs, lounges	1 space per 100 sq. ft. of GFA
	Bed and breakfast facilities	2 spaces, plus 1 space per guest room
	Bingo halls and parlors	1 space per 2 seats at maximum capacity
	Bowling alleys	4 spaces per lane, plus as required for incidental uses (pro shop, coffee shop, etc.)
	Brewpubs	1 space per 100 sq. ft. GFA
	Builders supply offices and yards--wholesale	2 spaces per 3 employees
	Carwashes--full-service	2 spaces per 3 employees, plus 2 stacking spaces

		per bay
	Carwashes--self-service	2 stacking spaces per bay
	Cleaning and janitorial services	2 spaces per 3 employees
	Convenience stores with gas sales	1 space per pump island, plus 1 space per 150 sq. ft. GFA, plus 2 spaces per 3 employees
	Drive-in theaters	1 space per employee
	Driving ranges--golf	1 space per tee box, plus 2 spaces per 3 employees
	Dry cleaning (no cleaning on-site)	1 space per 300 sq. ft. GFA
	Emission testing centers	2 spaces per bay, plus 2 spaces per 3 employees
	Exterminating shops	2 spaces per 3 employees
	Flea and farmers markets, swap meets--outdoor	2 spaces per vendor space
	Gas stations with repair, lube and tire shops	1 space per pump island, plus 1 space per 150 sq. ft. GFA, plus 2 spaces per 3 employees
	Golf courses, country clubs	6 spaces per hole, plus as required for incidental uses (pro shop, bar, etc.)
	Hotels and motels, guesthouses	1 space per guest room, plus specified requirements for related commercial uses, conference space and manager's unit
	Kennels, boarding and grooming	1 space per 400 sq. ft. GFA
	Laundromats	1 space per 250 sq. ft. GFA
	Medical and dental offices and clinics	1 space per 250 sq. ft. GFA
	Membership clubs, health clubs, martial arts studios	1 space per 200 sq. ft. GFA
	Miniature golf courses	1.5 spaces per hole, plus as required for incidental uses (game room, snack bar, etc.)
	Mixed-use	As required for both uses
	Mobile home sales, repair	1 space per 300 sq. ft. GFA of office space
	Mortuaries and funeral homes	1 space per 4 seats
	Movie theaters--indoors	1 space per 4 seats
	Nurseries, greenhouses, garden shops	1 space per 300 sq. ft. GFA
	Offices	1 space per 300 sq. ft. GFA or 2 spaces per 3 employees, whichever is greater
	Pawn shops--no outdoor storage	1 space per 250 sq. ft. GFA
	Personal service shops (beauty, barber, tanning and nail salons, spas, massage therapists, shoe repair)	1 space per 300 sq. ft. GFA
	Pet stores	1 space per 300 sq. ft. GFA
	Printing and copy shops, mail centers	1 space per 200 sq. ft. GFA
	Radio and TV stations	2 spaces per 3 employees

	Recreation--indoor and outdoor extensive (skating rinks, dance halls, riding clubs, tennis courts, etc.)	1 space per 500 sq. ft. GFA
	Recreation--intensive (go-cart tracks, video arcades, etc.)	1 space per 4 persons at maximum capacity
	Rental service--equipment, small tools, home furnishings, supplies	1 space per 300 sq. ft. GFA
	Restaurants, cafes and other eating establishments (includes outdoor seating/eating areas); bakeries, coffee shops, pick-up/take-out restaurants	1 space per 4 seats (includes outdoor seating areas); 1 space per 200 sq. ft. of customer service area for pick-up/take-out restaurants without seating, plus 2 spaces for every 3 employees
	Restaurants with drive-in, drive-thru or drive-up facilities (including outdoor seating areas)	1 space per 4 seats (includes outdoor seating areas) plus 1 lane for each drive-up window with 5 stacking spaces per lane, plus 2 spaces for every 3 employees
	Retail sales	1 space per 250 sq. ft. GFA, plus 1 space per 300 sq. ft. GFA outdoor display
	RV and travel trailer parks	1 space per RV rental space
	Stables--commercial	1 space per 5 riding animals boarded on site
	Taxidermist	1 space per 500 sq. ft. GFA
	Theaters (outdoor), auditoriums, sports arenas, stadiums	1 space per 3 seats
	Theme or amusement parks, zoos, aquariums	1 space per 3 persons at maximum capacity
	Towing services	2 spaces per 3 employees
	Train, shuttle, bus depots	1 space per 200 sq. ft. GFA
	Upholstery shops	1 space per 500 sq. ft. GFA
	Veterinary clinics, animal hospitals	1 space per 200 sq. ft. GFA
	Warehousing--self-serve storage units	1 space per 300 sq. ft. GFA office space, plus 1 space per employee or 2 spaces for resident manager
	Wholesale goods and sales	1 space per employee, plus 1 space per 500 sq. ft. GFA open to public, plus 1 space per 1,000 sq. ft. GA outdoor display
Industrial	Accessory residential	1 space per residence
	Adult businesses	1 space per 100 sq. ft. GFA
	Airports, heliports	1 space per 5 aircraft parking and storage areas, plus 2 spaces per 3 employees, plus 1 space per 200 sq. ft. GFA of lobby or waiting area
	Auto dismantling, junk and salvage yards	1 space per 500 sq. ft. GFA
	Bulk storage of flammable liquids and gases	2 spaces per 3 employees
	Chemical manufacturing plants	2 spaces per 3 employees
	Co-generation and power plants	2 spaces per 3 employees

	Commercial laundries and dry cleaning plants	2 spaces per 3 employees
	Concrete, asphalt batch plants	2 spaces per 3 employees
	Crematoriums	2 spaces per 3 employees
	Farm equipment, implement, diesel and bus sales and repair	1 space per 500 sq. ft. GFA of showroom, office, vehicle repair and parts sales areas, plus 1 space per 1,000 sq. ft. GA outdoor display
	Food and beverage processing	2 spaces per 3 employees
	Foundries	2 spaces per 3 employees
	Gravel and mineral extraction	per use by special review requirements
	Grain and feed elevators and supply	2 spaces per 3 employees
	Livestock auctions	1 space per 2 seats at maximum capacity, plus 2 spaces per 3 employees
	Manufacturing--general	2 spaces per 3 employees
	Moving and storage companies	1 space per 250 sq. ft. GFA of office area, plus 1 space per company vehicle operating from premises
	Newspaper, publishing plants, binderies	2 spaces per 3 employees
	Oil and gas operations	None
	Race tracks (auto, motorcycle, etc.)	1 space per employee, plus 1 space per 4 seats
	Recycling centers--small collection	1 space per employee
	Recycling centers--large collection and processing facilities	2 parking spaces per 3 employees, plus 1 space per company vehicle operating from premises and 1 space per loading area
	Refuse transfer stations	2 spaces per 3 employees, plus 1 space per company vehicle operating from premises
	Rendering plants, slaughterhouse, meat processing, packaging	2 spaces per 3 employees
	Research and testing labs	2 spaces per 3 employees
	Transportation facilities	1 space per employee, plus 1 space per 300 sq. ft. GFA of terminal
	Truck, trailer and large equipment rental	1 space per employee, plus 1 space per 500 sq. ft. GFA of office area
	Trucking and freight terminals	1 space per 250 sq. ft. GFA of office area, plus 1 space per company vehicle operating from premises
	Warehouses	2 spaces per 3 employees
	Water and wastewater treatment plants	2 spaces per 3 employees
	Welding, machine shops	2 spaces per 3 employees
	Well drilling companies	2 spaces per 3 employees

(Code 1994, § 18.42.050; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 40, 2009, § 1, 8-18-2009)

Sec. 24-1100. Parking for disabled.

(a) The required number of parking spaces for the disabled for all land uses shall be provided in accordance with federal and state law.

(b) Each parking space for the disabled shall be in conformance with applicable requirements of the Americans with Disabilities Act (ADA).

[GRAPHIC - Figure 18.42-2. Parking for Disabled]

(c) Each parking space for the disabled shall be marked with a freestanding sign of sufficient height so that it is not blocked from view by parked vehicles and pavement markings using the standard words, symbols and colors that signify that the space is for the disabled.

[GRAPHIC - Figure 18.42-3. Symbol for Parking for the Disabled]

(d) Designated parking spaces for the disabled shall be located as near to the principal disabled accessible entrance of the building or structure as is possible and shall be generally designed so that pedestrian access between the parking space and the building shall not involve crossing an area used for vehicular circulation.

(e) The total number of spaces provided for the disabled shall be included in the total number of parking spaces otherwise required herein.

(Code 1994, § 18.42.060; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 40, 2009, § 1, 8-18-2009)

Sec. 24-1101. Bicycle parking.

Bicycle parking spaces shall be provided meeting the following standards:

(1) One-half space per unit or one-third space per bedroom, whichever is greater, in multifamily residential developments of greater than four units; and at least three spaces, or five percent of the total required off-street parking spaces, whichever is greater, for nonresidential developments and uses.

(2) A securely fixed, tamper-resistant structure designed for bicycle parking in a more or less permanent location on the ground which supports the bicycle frame in a stable position without damage to wheels, frame or components and which is compatible in design with adjacent buildings and street furniture. In lieu of a bicycle parking structure, a secured bicycle parking area may be provided on an all-weather surface which may include gravel, within a convenient distance of and visible from the primary entrance to the building for which the spaces are intended to be used and shall not obstruct pedestrian access to or through the building, or be located any closer than three feet from vehicle parking areas. Bicycle parking spaces may be provided within the principal building as long as the location does not impede pedestrian access.

(Code 1994, § 18.42.070; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 40, 2009, § 1, 8-18-2009)

Sec. 24-1102. Parking space dimensions.

(a) The required number of parking spaces may either be provided in a combination of standard sized and compact spaces meeting all provisions of subsections (b) and (c) of this section.

(b) Minimum off-street parking space dimensions for standard size parking spaces shall be as provided for in the following table ~~18.42-2~~ and as illustrated in ~~the figures in Appendix 18-G~~ subsection (d) of this section:

Table ~~18.42-2~~ 24-1102.1. Standard Spaces

Parking Angle	*Stall Width*	*Stall Length—Shortest Dimension*	*Aisle Width*
0 degrees	9.0 feet	23.0 feet	12.0 feet
20 degrees	9.0 feet	19.0 feet	12.0 feet

30 degrees	9.0 feet	19.0 feet	12.0 feet
40 degrees	9.0 feet	19.0 feet	14.8 feet
45 degrees	9.0 feet	19.0 feet	16.3 feet
50 degrees	9.0 feet	19.0 feet	17.6 feet
60 degrees	9.0 feet	19.0 feet	20.0 feet
70 degrees	9.0 feet	19.0 feet	21.6 feet
90 degrees	9.0 feet	19.0 feet	23.0 feet

(1) Parking spaces with the front of the car overhanging a landscaping area or sidewalk of at least six feet in width shall not be less than 17 feet in length subject to the provision of a wheel barrier attached to the parking lot surface and where such overhang does not negatively impact adjacent landscaping. In no event shall the area of overhang be more than two feet. If there are two opposing rows of parking, then the sidewalk and landscaped area shall be a minimum of eight feet in width.

(2) All other parking spaces shall be provided in accordance with this section and Table ~~18.42-2~~ 24-1102.1, Standard Spaces, above.

(c) (1) Minimum off-street parking space dimensions for compact size parking spaces shall comply with the following table ~~18.42-3~~ and as illustrated in ~~the figures in Appendix 18-G~~ subsection (d) of this section:

Table ~~18.42-3~~ 24-1102.2. Compact Spaces

Parking Angle	*Stall Width*	*Stall Length--Shortest Dimension*	*Aisle Width*
0 degrees	8.0 feet	21.0 feet	12.0 feet
20 degrees	8.0 feet	16.0 feet	12.0 feet
30 degrees	8.0 feet	16.0 feet	12.0 feet
40 degrees	8.0 feet	16.0 feet	13.5 feet
45 degrees	8.0 feet	16.0 feet	14.9 feet
50 degrees	8.0 feet	16.0 feet	16.1 feet
60 degrees	8.0 feet	16.0 feet	18.2 feet
70 degrees	8.0 feet	16.0 feet	19.8 feet
90 degrees	8.0 feet	16.0 feet	21.0 feet

(2) The following provisions shall apply to the use of compact parking spaces in meeting off-street parking requirements:

a. Compact parking spaces shall be identified by upright signs a minimum of 4 1/2 feet in height, posted at the rate of one sign per eight spaces, which shall indicate that the spaces are for compact car parking.

b. The first ten spaces shall be standard-sized spaces. Thereafter up to 25 percent of the required spaces may be compact spaces.

c. When a mix of compact and standard-sized stalls are used within one aisle of parking, the aisle width used shall be the wider of the two aisle widths required in this subsection (c) of this section.

(d) Parking illustrations. ~~(To be added.)~~ Parking illustrations are on file in the city clerk's office.

~~APPENDIX 18-G Parking Illustrations~~

~~(To be added)~~

(Code 1994, § 18.42.080, app. 18-G; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 40, 2009, § 1, 8-18-2009)

Sec. 24-1103. Parking reduction options.

(a) A reduction in the required amount of parking may be granted by the community development director for shared parking situations for permitted uses and design review uses for commercial, industrial and mixed-use developments. The planning commission may approve shared parking for uses by special review using the criteria in subsection (b) of this section. In no event shall such a reduction be permitted for parking areas which would require less than ten parking spaces under the requirements of section 24-1099(g), Table ~~18.42-1~~ 24-1099.1, minimum parking requirements table.

(1) Upon submittal of documentation by the applicant of how the development meets the following criteria, the community development director or planning commission may approve reductions if one or more of the following applies:

a. The anticipated parking needs of all uses will be adequately served;

b. A mix of residential uses with office or retail uses is proposed and the parking needs of all uses will be accommodated through shared parking;

c. If joint use of common parking areas is proposed, varying time periods of use will accommodate proposed parking needs; or

d. No negative impacts will be borne by adjacent properties.

(2) If shared parking is approved, a written agreement at least 20 years in length shall be required between the city and the property owners, and said fully executed agreement shall be recorded in the county clerk and recorder's office at the property owners' cost.

(b) The planning commission may grant a reduction in the required number of off-street parking spaces for businesses with more than 50 employees on the major shift under the following provisions:

(1) Up to a ten-percent reduction in the number of required off-street parking spaces is permitted when the applicant and employers who are intended as tenants of the applicant's development agree to the following:

a. Designation of an employee transportation coordinator responsible for promoting ride-sharing and public transit use among employees;

b. Participation in area-wide ride matching systems or provision of a ride-matching program at the site; and

c. Reservation of a minimum of 20 percent of the off-street parking spaces for vehicles with two or more persons. The reserved spaces shall be located in close proximity to the building entrances relative to other spaces and shall be clearly signed or marked to be "Reserved--Minimum three persons per vehicle."

(2) Up to a 30 percent reduction in the number of required off-street parking spaces may be permitted when the applicant submits a transportation management plan demonstrating a comprehensive approach to reducing the parking demand at the site in compliance with subsection (3) of this section. The reduction granted shall be commensurate with the parking demand reduction projected by the transportation management plan. The plan shall be reviewed by the planning commission to determine the adequacy in reducing parking demand through increased ride-sharing and applicant and/or employer commitment to the program. Reductions shall be computed based on levels of auto occupancy and transit ridership determined by the planning commission to be applicable to the area in which the site is located.

(3) A minimum of three of the following techniques shall be provided to qualify as an acceptable comprehensive transportation management plan for the purpose of the parking space reduction in subsection (2) of this section:

a. Provision of van pools or subscription bus service for employees.

b. Subsidy of employee use of high-occupancy vehicles such as public transit, carpools, van pools and bus pools.

c. Instituting a parking charge without such charge to be employer-subsidized.

d. Provision of parking cost subsidies for high-occupancy vehicles if a parking charge exists.

e. Provisions for, or participation in, shuttle services from off-site parking facilities owned or leased by the applicant or employers who are tenants of the applicant's project.

f. Provisions for a program that encourages residents, employees and customers to use nonmotorized modes of transportation.

g. Any other technique or combination of techniques acceptable to the planning commission as capable of reducing off-street parking demand at the worksite.

(4) Parking requirements for housing units specifically designed and intended for senior citizens or those with disabilities that preclude or limit driving and/or affordable housing units may be adjusted on an individual project basis subject to a parking study based on project location and proximity to public services, including, but not limited to, medical offices, shopping areas, mass transit or alternative modes of transportation, employment, etc.

(5) No negative impacts shall be borne by the adjacent properties or the public right-of-way.

(6) Where a final transportation management plan is approved by the planning commission, the applicant shall provide a covenant ensuring continued compliance with the plan. Said covenant shall be for a term of at least 20 years unless the commission specifically finds that another period of time would be appropriate. Such covenant shall be recorded on public land records and shall run with the land.

(c) For infill and redevelopment sites, a waiver may be granted by the community development director to reduce the number of required parking spaces as long as at least one of the following criteria has been met. Further subdivision of the site or a change of use may require that full parking requirements be provided and a new waiver shall be obtained.

(1) The site qualifies as an infill site as defined in section 24-1155 or is located within the designated Urban Renewal Redevelopment District;

(2) The amount of parking to be provided shall not be less than 75 percent of the required number of parking spaces, or fewer than three spaces, whichever is greater, and there is land area reserved elsewhere on the site or in the immediate vicinity to accommodate the construction of all required parking spaces;

(3) There is no negative impact anticipated on existing or approved residential land uses in the immediately adjacent area;

(4) The applicant can demonstrate that the number of parking spaces needed is less than the Code requires based on the following:

a. The use incorporates public transit;

b. The use provides a transit service for its residents and/or tenants;

c. The use is related to the immediate area, rather than depending upon a larger market area and provides a greater number of bicycle spaces and pedestrian connections on and around the site to serve local customers; or

d. For a redevelopment area, on-street parking is available adjacent to the site.

(d) A waiver may be granted by the community development director to reduce the amount of required parking for a commercial basement which is used exclusively for storage. To accomplish this, a development agreement between the developer/builder and the city shall be created which limits the use of the basement to storage.

(Code 1994, § 18.42.090; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-

17-2002; Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 40, 2009, § 1, 8-18-2009)

Sec. 24-1104. Recreational and oversized vehicles.

(a) Recreational equipment and recreational vehicles shall be prohibited from being located in any setback, except as follows:

(1) Location. On lots where the principal activity is either single-family or two-family residential use, storage parking of recreational vehicles or recreational equipment is allowed to be located within the rear, street side setback and interior side setback of such lots only as follows:

a. The storage parking area does not extend into the front yard beyond the foundation of the principal residential structure on the lot, not including the garage, except where such parking is located immediately adjacent to an attached garage and where adjacent to a neighboring property where either the garage or habitable structure is aligned with said garage setback. Such exception shall be granted upon notice to the affected neighboring property owner as an administrative variance;

b. The storage parking area is no closer than five feet from the rear property line; and

c. Where the street side parking is not adjacent to the front yard of an adjoining lot. A variance from the zoning board of appeals (ZBA) may allow the location of recreational equipment or recreational vehicles in such setback where it is found that the lot and building configuration is such that such parking can still meet the intent of this title. The ZBA may attach site conditions such as, but not limited to, screening, additional setbacks, etc., as deemed appropriate to mitigate impacts to adjacent properties if found necessary to allow the street side parking.

(2) Size, number and screening. Requirements for storing recreational equipment and recreational vehicles on single-family and two-family lots is as noted on Table ~~18.42-4~~ 24-1104.1. A variance from the ZBA may alter the number of recreational equipment or recreational vehicles allowed where it is found that the lot is of a size such that such additional parking can still meet the intent of this title. The ZBA may attach site conditions, such as, but not limited to, screening additional setbacks, etc., as deemed appropriate to mitigate impacts to adjacent properties if found necessary to allow the additional parking.

Table ~~18.42-4~~ 24-1104.1. Recreational Equipment and Vehicles: Single-Family, Two-Family Lots

Type	*Characteristics*	*Storage Parking on Lot**
Recreational equipment--major	Boats over 18' in length, utility trailers over 5' × 8', enclosed utility trailers over 5' × 8' and over 3' in height	One permitted in rear yard 5' from rear property line, or within interior side yard behind the foundation of the residential structure, not including garage (unless as excepted in (1) of this section), or within side yard on-street if no closer than 10' to the property line. In no event shall such parking be closer than 3' to the structure nor cover or obstruct window wells
Recreational equipment-minor	Boats 18' in length or under, utility trailers 5' × 8' or smaller, canoes, snowmobiles, jet skis, ATVs, small and low-profile recreational equipment	No limit to the number of such equipment and are permitted in rear yard 5' from rear property line, or within interior side yard behind the foundation of the residential structure, not including garage (unless as excepted in subsection (c)(1) of this section), or within side yard on-street if no closer than 10' to the property line. In no event shall such parking be closer than 3' to the structure nor cover or obstruct window wells.
Recreational vehicle	Recreational vehicle as defined in section 24-5	One permitted in rear yard 5' from rear property line or within interior side yard behind the foundation of the residential structure, not including garage (unless as excepted in subsection (c)(1) of this section), or within street side setback if no closer than 10' to the property

		line. In no event shall such parking be located closer than 3' to the structure nor cover or obstruct window wells
* See section 24-1105(a)(4) regarding loading/unloading of RVs and for guests traveling in RVs		

(3) Storage parking surface. Storage parking of recreational equipment and/or vehicles on gravel surfaced areas shall contain gravel of a quantity to be filled to fully cover the storage parking area and depth that supports the weight of the stored vehicle without causing permanent ruts or displacement of the gravel material. The areas shall be completely surrounded by a collar constructed of concrete, pavers or other such permanent and fixed material, intended to provide a solid form of edging for the gravel. Said collar shall be a minimum of six inches in width and a height sufficient to fully contain the gravel. Materials such as metal or plastic edging do not constitute an acceptable collar structure. Access to such storage parking shall not be on bare dirt or landscaped surfaces but must be on gravel or an approved all-weather surface.

(4) Loading, unloading, repairs and guest parking.

a. *Loading, unloading and repairs*. Recreational vehicles shall be permitted to park in front yard driveways if located at least three feet in back of the sidewalk, or the front property line where no sidewalk exists, for loading, unloading or emergency repairs for a maximum of 48 hours on properties for which the principal use is either single-family or two-family residential.

b. *Guests*. Guests traveling in recreational vehicles shall be permitted to park their RV in such front yard driveways for a maximum period of seven consecutive days if:

1. The RV exterior is located at least three feet back from the sidewalk, or the front property line where no sidewalk exists; and

2. No clear vision zone is adversely affected by the parking of said recreational vehicles.

(5) Guest RV parking shall be limited to one seven-day period per vehicle in 12 consecutive months. Extensions to this period may be granted by an administrative variance for one additional week where unusual circumstances warrant. In no event shall a variance be granted more than one time in a 365-day period for a single property unless there is a change in ownership or occupancy of the property.

(6) Registration, license and operable condition required. Recreational vehicles, trailers or equipment that requires registration and/or a license by law shall be current in license or registration and shall be operable. Any such recreational vehicles, trailers or equipment not licensed or those not current in registration or that are inoperable in any area for any purpose are not allowed. Such vehicles and equipment must be legally registered to and/or owned by the owner or tenant of the dwelling on which the recreational vehicle or equipment is stored.

(7) No temporary or permanent dwelling purposes. Recreational vehicles or equipment stored on a property for which the principal use is either single-family or two-family residential may not be used for temporary or permanent living purposes on the site.

(b) Oversize vehicles.

(1) Work vehicles exceeding one-ton capacity, trailers exceeding 15 feet in length, tow trucks, taxicabs, limousines or vehicles not typically associated with a residential use shall not be parked at any time at single-family or two-family dwellings, except as follows:

a. For deliveries made to the dwelling;

b. For construction or maintenance work contracted to be done at the dwelling;

c. As provided in chapter 15 of this title; or

d. When the occupant of the dwelling has obtained a minor variance from the community development department based upon the user of the vehicle being required to occasionally have the vehicle present overnight on the residential premises as part of limited, on-call work requirements that relate exclusively to a public utility (such as Xcel or Atmos) for emergency response or service.

(2) Refer to section 16-397 for additional information regarding parking of oversized vehicles on public roadways and private land.

(Code 1994, § 18.42.095; Ord. No. 40, 2009, § 1, 8-18-2009)

Sec. 24-1105. Off-street loading regulations.

Off-street loading areas shall be required so that vehicles using such loading areas can maneuver safely and conveniently to and from a public right-of-way and complete loading and unloading operations without obstructing or interfering with any public right-of-way, parking space or driveway. These regulations shall apply to those nonresidential land uses which require that goods, merchandise or equipment be routinely delivered to or shipped from that land use.

(1) Required off-street loading spaces shall be provided on the same lot as the use served and shall be surfaced and maintained in a manner consistent with the off-street parking areas for the same use.

(2) Off-street loading spaces shall be required at least at the following rate:

a. One space shall be provided for buildings or structures containing gross floor area up to and including 20,000 square feet.

b. One additional space shall be provided for each additional 20,000 square feet or fraction thereof of floor area in excess of 20,000 square feet.

c. In determining the size of the required off-street loading space, fractional spaces above one-half are counted to the next whole number.

(3) Each off-street loading space shall be a minimum of ten feet wide and 35 feet in length and shall be designated solely for loading purposes.

(4) Ingress to and egress from required off-street loading spaces shall have at least the same vertical height clearance as the off-street loading space and shall include a concrete apron the width of the loading area.

(5) Each required off-street loading space shall be designed with a reasonable means of vehicular access from a street or alley in a manner which will least interfere with traffic movement so that when the spaces are being used to load or unload a vehicle, no part of the vehicle will occupy an adjacent street or sidewalk. No such loading area shall be located immediately adjacent to property in the R-L or R-M zoning district, or similar PUD zones. Each off-street loading space shall be independently accessible so that no loading space blocks another loading space. Trash storage facilities and other structures shall not block access to a required loading space.

(6) Off-street loading facilities for more than one building may be provided in a common terminal if connections between the building and terminal are off-street.

(7) Passenger loading spaces or aisles are required when the land use involves the routine drop-off and pick-up of persons from such uses as schools and auditoriums and shall be provided in addition to any required freight and equipment loading spaces as provided herein. Such loading spaces shall be no less than ten feet wide and 20 feet in length and the loading aisle shall be no less than 20 feet wide and 60 feet in length. Such passenger loading spaces shall be located in close proximity to the building or structure entrance and shall not require pedestrians to cross a driveway, parking aisle, alley or street in order to reach the entrance.

(8) Service or loading areas shall be located away from or screened from the view from streets or public areas and area residences.

(Code 1994, § 18.42.100; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 40, 2009, § 1, 8-18-2009)

Sec. 24-1106. Off-street stacking regulations.

(a) Off-street stacking shall be required in order to provide a convenient and safe location for vehicles waiting in line to access uses which contain a drive-thru lane or drive-up window and so that waiting vehicles do not interfere with other vehicular access and circulation routes on or adjacent to the site.

(b) Off-street stacking spaces shall be a minimum of 8 1/2 feet wide and 19 feet in length and shall not interfere with access or the public right-of-way.

(c) A minimum of five off-street stacking spaces shall be required for each lane or window at uses which have a drive-thru or drive-up window, including, but not limited to, banks and restaurants.

(d) The area reserved for stacking spaces shall not be considered as an off-street parking space, maneuvering area or circulation driveway and shall not interfere with access to and circulation on the site.

(e) Stacking spaces shall be provided on the same lot as the use served and shall be located to minimize traffic impacts on- and off-site and so that negative impacts on adjacent properties due to noise, light or other factors are not created.

(f) Stacking spaces shall not be located in required setbacks.

(Code 1994, § 18.42.110; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 40, 2009, § 1, 8-18-2009)

Sec. 24-1107. Historical parking credit.

When a change of use is proposed, sites which were developed in accordance with a previous Code and which do not have adequate parking spaces under the existing Code can receive historical parking credit for the number of parking spaces they should have had under the existing Code.

(Code 1994, § 18.42.120; Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 40, 2009, § 1, 8-18-2009)

Secs. 24-1108--24-1137. Reserved.

CHAPTER 11. LANDSCAPING AND BUFFERING STANDARDS

Sec. 24-1138. Purpose and intent.

These standards are intended to establish landscaping regulations that:

(1) Improve the aesthetic appearance of setback areas, common open space areas, public rights-of-way and off-street vehicular parking areas;

(2) Promote compatibility between land uses of different intensities;

(3) Promote the use of generally accepted landscape design principles;

(4) Protect public health, safety and welfare by minimizing the impact of all forms of physical and visual pollution, controlling soil erosion, screening unsightly areas, preserving the integrity of neighborhoods and enhancing pedestrian and vehicular traffic and safety;

(5) Promote water conservation through the use and incorporation of low water adaptive vegetation and by using water conservation principles;

(6) Promote shaded, tree-lined streets within all areas of the city;

(7) Maintain the city's standing as a "Tree City USA"; and

(8) Implement comprehensive plan policy of reducing "heat islands."

(Code 1994, § 18.44.010; Ord. No. 20, 2009, § 1, 7-21-2009)

Sec. 24-1139. Application.

(a) The maintenance provisions of this chapter shall apply to all properties.

(b) All other provisions of this chapter shall apply to:

(1) All development applications and building permit applications which require a landscape plan as part of the submittal requirements.

(2) Existing properties when one or more of the following occur:

a. When there is a change in ground floor gross floor area as outlined in section 24-1144.

b. When there is a change of use as defined in section 24-1140.

c. When there is a significant change is landscaping as defined in section 24-1140.

d. When there is a change in parking, circulation or drainage.

e. When there is an increase in noise or lighting.

(c) Upon such increase or change, the existing landscaping shall be upgraded as provided in the landscaping upgrade table in section 24-1144 if such landscaping does not already meet the requirements of this chapter.

(d) In order to provide greater flexibility in designated urban renewal areas, redevelopment projects shall be reviewed on a case-by-case basis for compliance with this chapter. The community development director shall have the authority to waive one or more of the provisions contained herein if it can be demonstrated by the applicant of a redevelopment project that the intent of the provisions would be adequately met with an alternative landscape design.

(e) Exemptions.

(1) Permit for interior or exterior rehabilitation or remodeling of an existing building which does not involve any change in the gross floor area of the building or change of use shall be exempt from the provisions herein.

(2) The accessory and temporary uses listed in chapter 15 of this title shall be exempt from the provisions of this chapter.

(3) Pursuant to section 24-757, property located within the General Improvement District #1 (GID) shall be exempt from the provisions herein.

(4) Temporary, seasonal and nonconforming land uses shall be exempt from buffer yard requirements.

(Code 1994, § 18.44.020; Ord. No. 20, 2009, § 1, 7-21-2009)

Sec. 24-1140. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Acceptable street tree means a tree that has been approved by the public works director or his designee for planting in the right-of-way.

Berm means a mound of earth, higher than grade, used for screening or buffering, definition of space, noise attenuation and decoration in landscaping.

Buffer means to promote separation and compatibility between land uses of different intensities. The term "buffer" may also be used to describe the methods used to promote compatibility, such as a landscape buffer.

Buffer yard means that area intended to provide buffering between land uses of different intensities through the use of setbacks, landscaping, berms, fences, walls or a combination thereof.

Change of use means a use that substantially differs from the previous use of a building or land and which may affect such things as parking, drainage, circulation, landscaping, building configuration, noise or lighting. A change of ownership which does not include any of the factors listed above shall not be considered a change of use.

~~*Clear vision zone* means that area in which the city requires maintenance in order to preserve the sight distance and safety of motorists, pedestrians and bicyclists by requiring an unobstructed line of sight necessary for most drivers stopped at an intersection to see an approaching vehicle to avoid a collision.~~

Common area. See *Open space, common*.

Coniferous means cone-bearing trees and shrubs with needle-like leaves, such as pines, spruces and firs.

Deciduous means a plant with foliage that is shed annually.

Electric fence means any fence using, carrying or transmitting an electrical current for any purpose, except an electric or radio transmission dog or cat fence not meant to detain any person or animal except the dog or cat wearing the transmission collar.

Evergreen means a plant with foliage that persists and remains green year-round.

Gross floor area (GFA) means the total area of a building measured by taking the outside dimensions of the building at each floor level, or from the centerlines of walls separating two buildings and excluding areas used exclusively for the service of the building such as mechanical equipment spaces and shafts, elevators, stairways, escalators, ramps, loading docks, cellars, unenclosed porches, attics not used for human occupancy, any floor space in accessory buildings, or areas within the building which are intended for the parking of motor vehicles.

Ground cover means those materials that typically do not exceed one foot in height used to provide cover of the soil in landscaped areas and shall include river rock, cobble, boulders, grasses, flowers, low-growing shrubs and vines and those materials derived from once-living things, such as wood mulch. In no event shall weeds be considered ground cover.

Hardscape, hardscaped or *hardscaping* means the use of rock, mulch, gravel, pavers and/or other nonliving material in place of living plant material in a required landscape area.

High intensity use means a use expected to have a significant effect on adjacent properties as determined in the required buffer yard table.

Irrigation system means an underground, automatic sprinkler system or aboveground drip system designed specifically for the vegetation it waters in order to provide a permanent, or temporary for the purpose of establishing trees, method of watering landscape areas.

Landscape area means the area of required open space, according to the zoning district provisions in which the property is located, that is not allowed to be covered by buildings, paving or other impervious surface, whether within a lot, outlot or tract or within a public right-of-way, and shall not include any legally established area for storage or outdoor display.

Lawn means an area of land planted with grass maintained at a low, even height. Artificial turf shall not be considered lawn or turf.

Live plantings means trees, shrubs, perennials and live ground cover which are in healthy condition.

Lot or *site* means that portion of land designated as a unique parcel by legal subdivision and shall include lots, outlots and tracts.

Low intensity use means a use expected to have a limited effect on adjacent properties as determined in the required buffer yard table.

Low-water adaptive plants means those plants which have, or can be adapted to, low levels of irrigation water.

Maintain or *maintenance of landscaping* means, but shall not be limited to, regular watering, mowing, pruning, fertilizing, clearing of debris and weeds, the removal and replacement of dead plants and the repair and replacement of an irrigation system.

Medium intensity use means a use expected to have a moderate effect on adjacent properties as determined in the required buffer yard table.

Mixed use means having both residential and nonresidential uses within one building.

Multifamily means a building containing more than two dwelling units.

Multi-use means having a mix of uses on one lot.

On-lot landscaping means landscaping located on a privately owned lot, outlot or tract.

Opacity means the degree or extent that light is obscured.

Open fence means a fence that is at least 75 percent transparent. See also *Solid fence*.

Open space, common, means an area permanently set aside for the common use and enjoyment of residents or occupants of a development or members of a homeowners' association, which open area may be formally landscaped and/or left with natural vegetation cover and which may include swimming pools and other recreational leisure facilities; areas of scenic or natural beauty and habitat areas; hiking, riding or off-street bicycle trails; and landscape areas adjacent to roads which are in excess of minimum required setbacks. Common open space may also be referred

to as common area.

Open space, private or on-lot, means an outdoor area not intended for habitation, directly adjoining a dwelling unit or building, which is intended for the private enjoyment of the residents or occupants of the adjacent dwelling unit or building and which is defined in such a manner that its boundaries are evident. Private or on-lot open space may include lawn area, decks, balconies and/or patios.

Open space, required, means that portion of a lot or site not allowed to be covered by any structure or impervious surface, such as sidewalks or driveways, except when such impervious surface is counted toward usable open space.

Open space, usable, means that portion of a lot excluding the required front yard area which is unoccupied by principal or accessory buildings and available to all occupants for the building for use for recreational and other leisure activities normally carried on outdoors. The area shall be unobstructed to the sky and shall have a minimum dimension of 50 feet and a minimum area of 6,000 square feet. The term "usable open space" shall also include recreational facilities as determined in article VI of chapter 8 of this title.

Ornamental tree means a deciduous tree planted primarily for its ornamental value or for screening and which will typically be smaller than a shade tree.

Outlot means a tract of land platted in a subdivision for a specific purpose which shall be shown on the face of the plat. Specific purposes may include, but are not limited to, drainage areas, stormwater detention or retention areas, parks, open space, future development or land areas reserved for other public facilities. For an illustration of types of uses for outlots, see figure 18.44-1.

[GRAPHIC - Figure 18.44-1. Types of Uses for Outlots]

Parkway means the strip of land located between the sidewalk and the curb. Also referred to as a tree lawn.

Perennials means nonwoody plants that continue to live and grow from year to year, which may die back to the ground each year but continue to grow on a yearly basis. The term "perennials" shall also include cold weather bulbs and tubers and ornamental grasses that return each year and shall count toward ground cover requirements.

Perimeter treatment means improvements, such as landscaping and fencing, intended to provide visual and noise protection for the outer edges of developments which border arterial or major collector streets. Perimeter treatment is typically established at the time of new subdivision development.

Perimeter treatment plan means a design for the installation and perpetual maintenance of perimeter treatment areas.

Pocket park means a park less than ten acres in size, but larger than one-half acre in size, meant to serve the recreational needs of adjacent and nearby residents.

Required landscape area means the land within a property boundary which is not covered by any approved building, paving or structure. The term "required landscape area" shall also include the land between the street curb and public sidewalk (in the case of a detached sidewalk) or the land between the public sidewalk and property line (in the case of an attached sidewalk) that is adjacent to a lot or outlot.

Required landscaping means the landscaping required by this chapter.

Right-of-way landscaping means landscaping located within the public or private right-of-way adjacent to a privately-owned lot, outlot or tract, including parkways.

Screening means a method of reducing the impact of visual and/or noise intrusions through the use of plant materials, berms, fences and/or walls, or any combination thereof, intended to block that which is unsightly or offensive with a more harmonious element.

Setback, front or street side, means the area extending from the front yard to the rear yard, which separates the lot from an adjacent street. See also *Yard, front or street side*, below.

Shade tree means a deciduous tree planted primarily for its high crown of foliage or overhead shade and which typically reaches a height of at least 40 feet.

Shrub means a woody plant which consists of a number of small stems from the ground or small branches

near the ground and which may be deciduous or evergreen.

Significant change of landscaping means one or more of the following:

(1) Altering 50 percent or more square feet of required landscape area in any or each of the front yard, side yard, street side yard or public or private right-of-way;

(2) Removing any tree in any or each of the front yard, street side yard or public or private right-of-way; or

(3) Converting any or each of a front yard, side yard, street side yard or public or private right-of-way from "traditional" to "xeric," as defined herein.

Sod or *turf grass* means a commonly accepted blend of grasses for the Colorado climate, whether in sod or seed form when planted, intended to be regularly maintained as a lawn.

Solid fence means a fence that is at least 75 percent opaque. See also *Open fence*.

Street tree means a tree planted in close proximity to a street in order to provide shade over the street and to soften the street environment.

Traditional landscaping means the use of nonxeric plants that typically require more water to survive and may include, but is not limited to, using bluegrass or bluegrass mix turf as the primary ground cover.

Tree means a large woody plant having one or several self-supporting stems or trunks and numerous branches and which may be deciduous or evergreen.

Tree lawn shall have the same meaning as the term "parkway."

Turf or *sod* means a commonly accepted blend of grasses for the Colorado climate, whether in sod or seed form when planted, intended to be regularly maintained as a lawn. Artificial turf shall not be considered lawn or turf.

Very high intensity use means a use expected to have a very significant effect on adjacent properties as determined in the required buffer yard table.

Weed means any plant which is typically not installed for the purposes of landscaping; which is not typically propagated by the horticultural or nursery trades; or which presents a particularly noxious allergenic or growth characteristic.

Xeric landscaping means the use of low-water plants in place of plants that typically require more water to survive and include, but are not limited to, plants identified in Appendix 18D as having a low water requirement. Xeric landscaping does not mean the same as the term "hardscaping," as defined herein.

Yard, front or street side, means that portion of a lot between the primary structure and right-of-way. A yard may contain more land area than a setback area.

Yard, required, means that portion of a yard that also lies within the required setback area.

(Code 1994, § 18.44.030; Ord. No. 20, 2009, § 1, 7-21-2009; Ord. No. 8, 2010, § 1, 4-6-2010; Ord. No. 30, 2015, § 1(exh. A), 8-18-2015)

Sec. 24-1141. General provisions.

(a) It shall be unlawful for any person to fail to maintain, install, remove or alter landscaping contrary to the provisions herein. Failure to maintain, install, remove or alter required landscaping under the provisions of this Development Code shall be a violation of this Development Code ~~and shall be~~ subject to the sanctions ~~for code infractions~~ contained in chapter 10 of title 1 of this Code and any other sanctions permitted by law.

(b) Landscaping shall be provided to enhance open space, recreation areas, building foundations, areas of low visual interest, and screen and shade streets and sidewalks, parking and loading areas.

(c) These landscaping provisions are not intended to be cumulative or require multiple or overlapping landscape areas, screening areas, buffer yards or perimeter treatments. When more than one such standard applies, that standard which results in the higher landscaping, screening or buffering requirement shall apply.

(d) Alternative compliance may be considered on a case-by-case basis.

(e) Utility easements or other permanent obstacles which conflict with required screening, buffer yards, perimeter treatment, right-of-way, parkway or median standards may require greater or alternative designs to address such conflicts.

(f) Effect of landscaping on permit and occupancy approvals.

(1) Construction or development of a site shall not be undertaken until a landscape plan meeting the requirements of chapter 5 of this title, has been approved by the city. The landscape plan shall be designed in conjunction with the drainage plan for the subject property in such a manner as to maximize stormwater runoff absorption.

(2) All perimeter treatment landscaping and associated irrigation shall be installed pursuant to an approved landscape plan prior to issuance of any building permit.

(3) Prior to issuance of a certificate of occupancy, all on-lot landscaping and irrigation shall be installed, if required pursuant to an approved landscape plan.

(4) In the case of building envelopes, common area landscaping and irrigation shall be installed around the perimeter of the building envelope, halfway to the adjacent building envelopes, pursuant to an approved landscape plan prior to issuance of a certificate of occupancy.

(5) In the case of usable or common open space landscaping in common areas between lots, all landscaping and irrigation shall be completed prior to issuance of a building permit or as otherwise approved by the city in a development agreement or phasing plan.

(6) If weather prevents the required landscaping from being installed, the property owner or designee shall provide a financial guarantee, in a form acceptable to the city, in the amount of 125 percent of the materials and installation of all remaining landscaping to be completed, and an estimate of such costs, prior to issuance of a building permit or certificate of occupancy.

(7) When phasing development, a proportionate share of landscaping acceptable to the city, as outlined in an approved development agreement or planned unit development (PUD) plan, shall be installed and maintained with each phase based on the size of the proposed phase and shall be considered completed for the purposes of these regulations when such proportionate share of landscaping has been installed prior to issuance of a building permit.

(g) General irrigation requirements.

(1) An underground irrigation system shall be installed and maintained for all common area improvements, such as outlots, median boulevards, tree lawns, screening, buffer yards and perimeter treatment areas, in order to provide irrigation for all plant materials, consistent with the nature of the plant's irrigation needs.

(2) Sprinklers shall be placed so as not to throw water onto adjacent paved or hardscaped surfaces.

(3) Green Industry Best Management Practices for the Conservation and Protection of Water Resources in Colorado, prepared by Green Industries of Colorado (GreenCo), and kept on file in the city's water department, are guidelines for the conservation of water resources and protection of water quality and are strongly encouraged to be followed.

(4) All multifamily, commercial, industrial, mixed use and institutional properties shall install rain sensors. Refer to the city's water and sewer department standards for more information.

(h) Except plant materials installed by a homeowner on his property or adjacent right-of-way, all plant materials shall conform to the specifications of the American Association of Nurserymen (AAN) for No. 1 grade and shall have all wire and twine removed prior to planting. All trees shall be balled and burlapped or equivalent. Grass sod shall be clean and free of weeds and noxious pests or diseases. Plant materials which are known to be intolerant of the area in which they are proposed to be installed, or whose physical characteristics may be injurious to the public, shall not be specified for use.

(Code 1994, § 18.44.040; Ord. No. 20, 2009, § 1, 7-21-2009)

Sec. 24-1142. Measuring landscape material.

The following guidelines shall be used to measure areas covered in live plantings to ensure that landscape materials are measured as accurately and equitably as possible. For the purpose of determining what portion of a lot or right-of-way is landscaped with live plantings other than turf, the following table ~~18.44-1 below~~ provides square footage credit for various types of plants.

Table ~~18.44-1~~ 24-1142.1. Vegetation Credit Table

Type of Plant Material	*Credit in Square Feet*
Evergreen tree (at least 25 ft tall at maturity) [1]	100
Shade tree	50
Ornamental tree	25
Large shrub (Type 3) (more than 8 ft tall at maturity)	50
Medium shrub (Type 2) (4--8 ft tall at maturity)	25
Small shrub (Type 1) (less than 4 ft tall at maturity)	10
Columnar deciduous or evergreen tree	25
Columnar evergreen shrub (less than 8 ft tall at maturity)	10
Evergreen ground cover	25
Perennial plant and ground cover, bulb/tuber and ornamental grass [2]	5

[1] Dwarf trees or tree varieties with a mature width of less than ten feet shall count as 25 square feet.

[2] Large ornamental grass, over four feet tall at maturity, shall count as ten square feet.

(1) To determine how much of a required yard is landscaped with live plantings, the following steps shall be taken to determine the size of the required yard. These steps can also be found in Table ~~18.44-2~~ 24-1142.2.

a. Measure the required yard length and width;

b. Multiply the yard length times the width to find the required yard area;

c. Measure the driveway length and width;

d. Multiply the driveway length times the width to find the driveway area;

e. Measure and multiply the length times the width of any walkways on site, such as leading from the driveway to the front door of the house, to find the walkway area;

f. Subtract the driveway and walkway areas from the required yard area. The difference will be the square footage of the required yard that must contain landscape material.

(2) To determine how many plantings are needed to meet the 50 percent requirement:

a. Divide square footage of required yard that must be landscaped by two. This will give the minimum square footage of plantings that is needed to cover one-half the required yard (minimum square feet of plantings);

b. Using Table ~~18.44-1~~ 24-1142.1 above, figure the square footage of the plant material already on site. Also include square feet of sod, if any.

c. If less than the minimum square feet of plantings, additional living plant material shall be added, based on the square footage credit in Table ~~18.44-1~~ 24-1142.1.

Table ~~18.44-2~~ 24-1142.2. Example of How to Calculate Landscaped Area

	Length	*Width*	*Length x Width*	*Calculations*
Required yard	25 feet	55 feet	25 x 55 = 1,375 square feet	1,375
Driveway area	25 feet	20 feet	25 x 20 = 500 square feet	- 500 = 875 square feet
Walkway area	15 feet	3 feet	15 x 3 = 45 square feet	- 45 = 830 square feet
Total planting area	830 square feet			

Type of Plant	*Square Feet of Plant*	*Quantity*	*Plants x Quantity*
Blue Spruce (evergreen tree)	100	1	100
Spring Snow Crabapple (ornamental tree)	25	1	+25
Sea Green Juniper (evergreen ground cover)	25	6	+150
Potentilla (small shrub)	10	6	+60
Iris (bulb/tuber)	5	10	+50
Little Bluestem (ornamental grass)	5	10	+50
Total plant area	435 square feet		

Divide the total plant area by the total planting area then multiply by 100 to find the percent of live plant coverage:

435 square feet ÷ 830 square feet = 0.52 x 100 = 52 percent

(Code 1994, § 18.44.050; Ord. No. 20, 2009, § 1, 7-21-2009; Ord. No. 44, 2011, § 1, 12-6-2011)

Sec. 24-1143. Maintenance of landscape areas.

(a) The property owner shall be responsible for maintenance of all on-lot landscaping. This shall include a requirement for the maintenance of landscaping to preclude interference with any part of a sidewalk, parkway or roadway. In the event the property is not owner-occupied, upon credible written evidence provided by the property owner that the tenant has accepted responsibility for landscape maintenance (such as written in the lease), the tenant shall be held jointly responsible for the maintenance of all on-lot and right-of-way landscaping.

(b) Except for perimeter treatment areas, the property owner adjacent to the parkway or right-of-way shall be responsible for the perpetual maintenance of the parkway or right-of-way, unless an owners' association has agreed in writing to perpetually maintain the parkway or right-of-way. This shall include a requirement for the maintenance of landscaping to preclude interference with any part of a sidewalk, parkway or roadway. Any changes to landscaping within parkways or rights-of-way must meet the requirements of this chapter.

(c) Maintenance of the perimeter treatment shall be the responsibility of the developer until an owners' association is established. Thereafter, the owners' association shall maintain the perimeter treatment in perpetuity.

(d) All common open space shall be maintained by an owners' association in perpetuity.

(e) The developer, owners' association, property owner and/or tenant, as required by this chapter, shall be responsible for the installation and maintenance of all on-lot and right-of-way landscaping, buffering, perimeter treatment and screening improvements in a healthy condition.

(f) Detention areas not accepted by the city for dedication shall be maintained by an owners' association.

(g) Notwithstanding the above provisions, owners of property within an area governed by an owners' association may be held jointly and severably responsible for common areas, detention pond areas and/or perimeter treatment areas if the owners' association becomes inactive or defunct.

Table ~~18.44-3~~ 24-1143.1. Responsibility for Installation and Maintenance

	Perimeter Treatment		*Buffer Yard*		*Right-of-Way Landscaping (not as part of perimeter treatment)*		*On-Lot or On-Site Landscaping*		*Common Areas*		*Detention Pond*	
	Installation	Maintenance	Installation	Maintenance	Installation	Maintenance	Installation	Maintenance	Installation	Maintenance	Installation	Maintenance
Developer	X (see note 1)		X (see note 1)		X (only if transferred by Development Agreement)		X (see note 1)		X (see note 1)		X (see note 1)	
Builder					X (only if transferred by Development Agreement)		X		X			
Owners' Association		X			X (only if transferred by Development Agreement			X		X		X
Property Owner		X (if Owners' Assn defunct--see § 24-	X	X (if on site)	X	X	X	X		X (if Owners' Assn defunct--see § 24-		X (if Owners' Assn defunct--see § 24-

		1143(g))								1143(g))		1143(g))

Note 1: In cases where the property owner is the same as the builder or developer, the property owner is responsible for installation of all landscaping.

(Code 1994, § 18.44.060; Ord. No. 20, 2009, § 1, 7-21-2009; Ord. No. 8, 2010, § 1, 4-6-2010)

Sec. 24-1144. General landscape standards for all properties.

(a) The following standards shall ensure that landscaping is used to improve the aesthetic quality of a development or site in addition to providing a functional purpose and year-round interest and/or screening.

(1) No landscaped area shall be used for commercial display, storage purposes and/or parking of vehicles.

(2) Weeds or bare dirt are not an allowed ground cover or landscape material either on-lot or in the right-of-way.

(3) Commercial grade fabric weed barrier with minimum six-inch overlap at seams is recommended in landscape areas that contain rock, gravel, mulch or similar nonliving material.

(4) To ensure adequate drainage and that nearby plants and trees receive adequate water, plastic shall not be placed under rock, gravel, mulch or similar nonliving material.

(5) Where dissimilar materials abut one another, edging shall be installed to separate the materials.

(6) In order to promote efficient irrigation and maintenance measures, berms shall not exceed a slope of three to one and shall be graded to appear as smooth, naturalistic forms.

(7) Landscaping shall be designed to ~~meet the minimum clear vision zone as defined in subsection 18.44.140(e) of this chapter~~ preserve the sight distance and safety of motorists, pedestrians and bicyclists by requiring an unobstructed line of sight necessary for most drivers spotted at an intersection to see an approaching vehicle to avoid a collision.

(8) When applicable, the city's entryway master plan shall be incorporated into landscape plans (refer to the Entryway master plan, which can be found in the city's planning office, for further information).

(9) Location, size and species of landscape material.

a. The species, location and spacing of trees and shrubs planted in public rights-of-way and on all sites except for permitted uses in the R-E, R-L, R-M and H-A Zoning Districts shall be subject to approval by the public works director or his designee. Trees, shrubs and ground cover installed in public rights-of-way in the R-E, R-L, R-M and H-A Districts shall be consistent with the provisions contained herein.

b. Evergreen trees shall not be located in the public right-of-way unless prior written approval has been obtained by the public works director or his designee.

c. Trees and shrubs shall be planted so that at maturity they do not interfere with utility service lines and traffic safety.

d. Trees planted near public sidewalks shall be installed in such a manner as to prevent physical damage to sidewalks, curbs, gutters, pedestrian ways, bike paths and other public improvements.

e. Adjustments to the number and placement of street trees may be allowed to accommodate existing or proposed utilities, curb cuts, streetlights or traffic control devices.

f. When the applicant presents evidence that the placement of trees and/or shrubs, as required in this chapter, would not be practical or feasible, a portion of the trees and shrubs may be located in alternative locations on the same lot, subject to approval by the community development director or designee. If required trees cannot be located on-lot due to site constraints, the applicant shall pay to the city cash in lieu of the required trees based on a schedule maintained by the planning division for the cost of labor and materials.

g. In no event shall trees be planted in a landscape area less than six feet in width, nor shall a landscape area be inadequate in size to allow for the installation and healthy growing condition of trees and/or shrubs.

h. The first ten feet of landscaping parallel to the street edge shall not include any part of any building or structure, or any paved area except pedestrian sidewalks or paths, or vehicular driveways which may intersect the right-of-way at a point which is perpendicular to the right-of-way and which shall be the minimum width necessary to provide vehicular or pedestrian access.

(10) A protective tree grate, at least three feet in diameter, shall be provided when trees are planted in paved areas such as plazas or sidewalks.

(11) Low-water vegetation selected from the following tree, shrub and ground cover lists ~~found in Appendix 18-D of this title~~ is encouraged in the design of landscape plans.

~~APPENDIX 18-D Tree, Shrub, and Ground Cover Lists~~

SHADE TREES

*Key: M = Moist Ad = Adaptable D = Dry A = Acceptable NA = Not Acceptable

Plant Name	Height			Width				Water*			Street Tree*	
	20' - 40'	40' - 60'	60' - 80'+	⟨20'	20' - 30'	30' - 40'	40' - 50'+	M	Ad	D	A	NA
ACER platanoides/ Norway Maple, "Royal Red"												
AESCULUS carnea/ Horse Chestnut												
AESCULUS octandra/ Yellow Buckeye												
CATALPA speciosa/ Western Catalpa												
CELTIS occidentalis/ Western Hackberry												
Ginkgo biloba/ Common Ginkgo (male only)												
GLEDITSIA triancanthos inermis/ "Imperial" Honeylocust/ Imperial Honeylocust												
GLEDITSIA tri. inermis/ "Shademaster"												
GLEDITSIA tri. inermis/"Skyline"												
GYMNOCLADUS dioica/ Kentucky Coffeetree												
PHELLODENDRON amurense/ Corktree												
POPULUS acuminate/ Lanceleaf Cottonwood (cottonless var. only)												
POPULUS/ Narrowleaf												

Cottonwood (cottonless var. only)												
POPULUS sargentii/ Plains Cottonwood (cottonless var. only)												
QUERCUS macrocarpa/ Burr Oak												
QUERCUS robur/ English Oak												
QUERCUS robur 'Fastigiata'/ Columnar English Oak												
QUERCUS rubra/Red Oak												
QUERCUS shujardii/ Shumard Oak												
SALIX alba vitellina/ Golden Willow												
SALIX amygdaloides/ Peachleaf Willow												
SALIX/ "Prairie Cascade"												
TILIA Americana/ Redmond Linden												
TILIA Americana 'Wandell'/ Legend American Linden												
TILIA cordata/ "Greenspire" Linden												
TILIA tomentosa/ "Sterling Silver" Linden												
ULMUS/ "Frontier" Elm												
ULMUS "Morton"/ Accolade Elm												
ULMUS davidiana japonica/ Discovery Elm												

ORNAMENTAL TREES

*Key: M = Moist Ad = Adaptable D = Dry A = Acceptable NA = Not Acceptable

Plant Name	Height			Width			Water*			Street Tree*	
	10' - 20'	15' - 25'	25' - 35'+	10' - 15'	15-' - 25'	25' - 35'	M	Ad	D	A	NA
ACER ginnala/ Amur or Ginnala Maple											
ACER ginnala/ "Flame" Amur Maple											
ACER grandidentatum/ Bigtooth Maple											
ACER tartaricm/ Tartarian Maple											
AESCULUS glabra/ Ohio Buckeye											
BETULA fontinalis/ Native River Birch											
CRATAEGUS ambigua/ Hawthorne											
CRATAEGUS crusgalli/ Cockspur Hawthorn											

CRATAEGUS crusgalli inermis/ Thornless Cockspur Hawthorn											
CRATAEGUS mollis/ Downy Hawthorn											
CRATAEGUS phaenopyrum/ Washington Hawthorn											
KOELREUTERIA paniculata/ Golden Rain Tree											
MALUS species/ Crabapple (varieties resistant to fire blight: Dolgo Royalty, Radiant, etc.)											
MORUS alba/ Chapparal (fruitless variety)											
POPULUS tremuloides/ Aspen											
PRUNUS maacki/ Amur Chokecherry											
PRUNUS padus/ Mayday Tree											
PRUNUS virginiana/ Shubert or Canada Red Chokecherry											
PYRUS calleryana/ Bradford, Aristocrat, Redspire Pear											
QUERCUS gambelii/ Gambel Oak											
SOPHORA japonica/ Japanese Pagoda Tree											
SYRINGA/ Japanese Tree Lilac											
TILIA cordata/ Littleleaf Linden Greenspire											

EVERGREEN TREES

*Key: M = Moist Ad = Adaptable D = Dry A = Acceptable NA = Not Acceptable

Plant Name	Height			Width			Water*			Street Tree*	
	10' - 20'	20' - 40'	40' - 60'+	6' - 15'	15' - 30'	30' - 40'	M	Ad	D	A	NA
ABIES concolor/ White Fir											
JUNIPERUS monosperma/ One-seed Juniper											
JUNIPERUS scopulorum/ Rocky Mtn Juniper											
PICEA pungens/ Colorado Spruce											
PICEA pungens glauca/ Colorado Blue Spruce											
PINUS aristata/ Bristlecone Pine											

PINUS cembroides edulis/ Pinon Pine											
PINUS nigra/ Austrian Pine											
PINUS ponderosa/ Ponderosa Pine											
PINUS sylvestris/ Scotch Pine											
PSEUDOTSUGA/ Douglas Fir											

DECIDUOUS SHRUBS

Plant Name	Height			Width			Water		
	1'--4'	4'--8'	8'--12'+	1'--4'	4'--8'	8'--12'+	Moist	Adaptable	Dry
ACER ginnala 'Compacta'/Dwarf Amur Maple									
ACER glabrum/Rocky Mountain Maple									
AMELANCHIER/Serviceberry (varieties)									
AMORPHA/Leadplant; False Indigo									
ARONIA/Chokeberry varietes									
ARTEMESIA/Sage varieties									
BERBERIS thunbergii/Barberry varieties									
CARAGANA arborescens/Peashrub varieties									
CARYOPTERIS clandonensis/Bluemist Spirea									
CERCOCARPUS intricatus/LittleLeaf Mountain Mahogany									
CERCOCARPUS ledifolius/Curlleaf Mountain Mahogany									
CERCOCARPUS montanus/Mtn. Mahogany									
CHRYSOTHAMNUS/Rabbitbrush									
CORNUS sericea/Dogwood varieties									

CORNUS alba/Variegated Dogwood									
COTONEASTER apiculatus/Cranberry Cotoneaster									
COTONEASTER divaricatus/Spreading Cotoneaster									
COTONEASTER lucidus/Peking Cotoneaster									
EUONYMUS alatus/Burning Bush									
EUONYMUS alatus 'Compacta'/Dwarf Burning Bush									
FALLUGIA paradoxa/Apache Plume									
FORSYTHIA/Forsythia varieties									
HIBISCUS syriacus/Althea (Rose of Sharon)									
HIPPOPHAE rhamnoides/Sea Buckthorn									
HYDRANGEA paniculata/PeeGee Hydrangea									
KOLKWITZIA amabilis/Beauty Bush									
LIGUSTRUM vulgare/Privet varieties									
LONICERA/Honeysuckle varieties									
MAHONIA aquifolium/Oregon Grape Holly									
PEROVSKIA atriplicifolia/Russian Sage									
PHILADELPHUS sp./Mockorange varieties									
PHYSOCARPUS sp./Ninebark varieties									
POTENTILLA fruticosa/Potentilla varieties									
PRUNUS Americana/American Plum									
PRUNUS besseyi/Western Sand Cherry									
PRUNUS cistena/Purpleleaf Plum									
PURSHIA tridentata/Bitter Antelopebrush									
PYRACANTHA sp./Firethorn varieties									

QUERCUS gambelii/Gambel Oak									
RHAMNUS sp./Buckthorn									
RHUS aromatica/Dwarf Fragrant Sumac									
RHUS glabra/Sumac varieties									
RHUS trilobata/Three-leaf Sumac									
RHUS typhina/Staghorn Sumac									
RIBES alpinum/Alpine Currant									
RIBES aureum/Yellow Flowering Currant									
ROSA rugosa/Shrub Rose varieties									
SALIX sp./Willow varieties									
SAMBUCUS sp./Elder									
SHEPHERDIA sp./Buffaloberry									
SPIRAEA sp./Spirea varieties									
SYMPHORICARPOS sp./Snow and Coral Berry									
SYRINGIA sp./Lilac varieties									
VIBURNUM sp./Viburnum varieties									
WEIGELA florida/Weigela varieties									
YUCCA sp./Yucca; Soapweed/Adam's Needle									

EVERGREEN SHRUBS

Plant Name	Height			Width			Water		
	<1'--4'	4'--8'	8'--12'+	1'--4'	4'--8'	8'--12'+	Moist	Adaptable	Dry

JUNIPERUS chinensis/Juniper varieties									
JUNIPERUS horizontalis/Juniper varieties									
JUNIPERUS sabina/Juniper varieties									
JUNIPERUS scopulorum/Juniper varieties									
PICEA abies/Dwarf Norway Spruce									
PICEA glauca/Dwarf Alberta Spruce									
PINUS mugo/Mugo Pine									
TAXUS x media/Yew varieties									

(12) The size of landscape elements and materials shall meet minimum standards and be consistent with the size of the project and any existing streetscape. Minimum plant sizes are as follows:

Table ~~18.44-4~~ 24-1144.1. Minimum Plant Size

Plant Type	*Plant Size*
Shade trees	2" caliper, measured 1' above ground
Ornamental trees	1 1/2" caliper, measured 1' above ground
Evergreen trees	6' in height
Shrubs	5-gallon
Perennials and ornamental grasses	1-gallon

(13) Monoculture, or the extensive use of a single species of trees or shrubs, shall be limited to minimize the potential for disease or pests to strike a particular species resulting in significant same-species loss and shall be limited to the following:

Table ~~18.44-5~~ 24-1144.2. Maximum Use of Same Species

Number of Trees on Site	*Maximum percent of Same Species*
10—19	50 percent
20—39	33 percent
40—59	25 percent
60 or more	15 percent

Table ~~18.44-6~~ 24-1144.3. Tree Credit/Debit

Caliper at 4 1/2 Feet Above Ground	*Number of Tree Credits/Debits*

20+ inches	equal to 4 trees
13—19 inches	equal to 3 trees
8—12 inches	equal to 2 trees
2—7 inches	equal to 1 tree
Less than 2 inches	equal to 1/2 tree

(b) Required landscaping.

(1) At least 50 percent of any required yard, excluding driveway and walkway to the front door, shall contain live plantings.

(2) At least 50 percent of any parkway or right-of-way planting area, excluding driveways and public sidewalks, shall contain live plantings.

(3) All yards not covered by an approved building, driveway, walkway or other permanent structure shall be landscaped.

(4) Areas visible from a public right-of-way or adjacent property are required to be landscaped in accordance with the provisions of this chapter. Yards not visible from the right-of-way or adjacent property must be kept free from weeds and shall not be bare dirt.

(5) When there is a change in gross floor area, change of use, significant change in landscaping, change in parking, circulation or drainage, or when there is an increase in noise or lighting, landscaping that does not meet the provisions of this chapter shall be upgraded according to the landscape upgrade table below.

Table ~~18.44-7~~ 24-1144.4. Landscaping Upgrade

Proposed Change	*Landscaping Area Upgrade*
0—25 percent change in ground floor GFA*; or change in use with no increased GFA; or change in parking, circulation or drainage	Upgrade existing landscape area by 25 percent of required landscaping
26—50 percent change in ground floor GFA	Upgrade existing landscape area by 50 percent of required landscaping
Over 50 percent change in ground floor GFA	Upgrade existing landscape area by 100 percent of required landscaping
Any significant changes, as defined in this chapter, in front yard, street side yard and/or right-of-way landscape area	Upgrade front and street side landscape area and/or right-of-way landscape area by 100 percent of required landscaping**

*For the purposes of this table, outdoor display area shall be treated as gross floor area (GFA).

**All areas having a significant change must be upgraded to meet the provisions of this chapter.

(6) The amount of landscaping necessary to satisfy the percentage of upgrade shall be calculated by first determining the total amount of landscaping required under the full provisions of this Development Code. The upgrade percentage shall then be applied to the total to determine the extent of the required upgrade.

(7) The landscaping upgrades required in the landscaping upgrade table shall be accomplished in the following order of priority, unless otherwise stated herein:

a. Right-of-way landscaping;

b. Landscaping in required buffer yards based on section 24-1148;

c. Front and street side setback landscaping;

d. Landscaping within the interior of parking areas; then

e. Other landscaping interior to the site.

(c) Removal and replacement of landscaping.

(1) Existing healthy trees and shrubs shall be preserved and incorporated into the overall site and landscape design to the maximum extent practicable. Existing trees may be credited toward minimum tree planting requirements as follows:

a. Existing healthy trees may be credited toward tree planting requirements of this section according to the tree credit/debit table in Table ~~18.44-6-~~24-1144.3 above. Tree credits shall be given as long as all other provisions and the intent of this Development Code are met. Fractional caliper measurements shall be attributed to the next lowest category.

b. No credit shall be given for existing preserved trees which are:

1. Not located on the actual development site;

2. Not properly protected from damage during the construction process;

3. Prohibited species under the caliper size of 13 inches measured 4 1/2 feet above the ground; or

4. Dead, dying, diseased or infested with harmful insects.

(2) All trees to be removed from a multifamily (more than four units), institutional, commercial, industrial or mixed-use property, whether on-lot or in the right-of-way must be replaced on-lot or in the right-of-way, as appropriate, unless otherwise stated in this chapter. Cash in lieu shall be paid to the city for trees to be removed that cannot be replaced on-lot or in the right-of-way due to site constraints or overcrowding of landscaping based on the tree credit/debit table in Table ~~18.44-6-~~24-1144.3. Cash in lieu shall be determined by a cost estimate based on a schedule maintained by the planning division for labor and materials of trees meeting the minimum size requirements.

(3) A permit to remove or install any tree, hard surface or other permanent improvement in the public right-of-way shall be obtained from the city prior to the commencement of the removal or installation within the right-of-way.

(4) No tree located in the public right-of-way shall be removed without prior written approval of the public works director or his designee.

(5) If trees or shrubs are required to be removed by the city due to sight impairment of vehicular traffic or pedestrian circulation, such trees and/or shrubs shall not be replaced with new trees and/or shrubs without written approval from either the community development director or his designee if the new tree or shrub would be located in the public right-of-way or if the new tree or shrub would be located on-lot.

(6) Prior to the installation of turf grass and/or other plant materials in areas that have been compacted or disturbed by construction activity, such areas shall be thoroughly loosened, and organic industry-accepted, certified weed-free soil amendment (compost) shall be thoroughly incorporated into the soil of such areas at a rate of at least four cubic yards of soil amendment per 1,000 square feet of turf grass and/or area to be planted to a depth of at least six inches. In addition, prior to installation of any turf grass and/or other planted area, all foreign waste materials, including concrete, plastic, wire and the like, along with rocks larger than three inches, shall be removed from the top six inches of soil. In the case of new development, the developer shall affirm and certify, in writing, that the turf grass and/or planted areas that have been completed or disturbed by construction activity have been installed according to these standards or that legally binding commitments have been made to install such soil amendment prior to installation of such turf grass and/or other plant materials.

(Code 1994, § 18.44.070, app. 18-D; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 20, 2009, § 1, 7-21-2009; Ord. No. 8, 2010, § 1, 4-6-2010; Ord. No. 30, 2015, § 1(exh. A), 8-18-2015)

Sec. 24-1145. Stormwater detention.

(a) When feasible, stormwater detention shall be designed as a part of an integrated plan within the development by incorporating multiple shallow detention areas into landscape areas and open space and by utilizing landscape areas to reduce the amount of runoff entering the detention ponds, rather than having one large, deep detention pond.

(b) Detention areas not dedicated to the city shall be maintained by an owners' association.

(c) Detention ponds shall be designed and constructed to create a natural-appearing or decorative feature, and may also include an outdoor recreational amenity, such as a soccer field.

(d) Detention ponds may count toward required open space and/or usable open space as follows:

(1) Detention areas that are designed as an outdoor recreational amenity for a neighborhood shall count toward usable open space.

(2) Integrated detention areas intended to count toward the usable open space requirement shall be landscaped with a turf sod or seed mix and plantings to blend in with surrounding landscaped areas, pocket parks or buffer yards.

(3) Trickle channels or dry riverbeds shall be designed with the intent of appearing natural, using materials such as cobble, river rock or boulders and an underdrain.

(4) In the case of one or more large detention ponds to be counted as open space, but not necessarily usable open space, other types of sod or seed mix, excluding clump grasses, which will tolerate occasional fluctuating water levels, are permissible.

(e) Turf shall have a permanent form of irrigation.

(f) Low-water grasses shall have a temporary, or permanent if determined by the city as necessary, form of irrigation until landscaping is established.

(g) Trees or shrubs shall not be planted in an area that shall have the effect of reducing the volume of the pond below the rated capacity.

(h) The city may accept detention areas on a case-by-case basis upon successful establishment of landscaping as determined by the public works director or his designee.

(Code 1994, § 18.44.080; Ord. No. 20, 2009, § 1, 7-21-2009; Ord. No. 8, 2010, § 1, 4-6-2010)

Sec. 24-1146. Landscape provisions for single- and two-family residential.

In addition to other requirements of this chapter, the following provisions shall apply to single- and two-family residential uses and R-MH, R-L, R-M and R-E zoned property.

(1) If not previously installed, all required on-lot and right-of-way landscaping, excluding perimeter treatment, shall be installed in accordance with the provisions of this chapter, within one year of the issuance of the certificate of occupancy, by the homeowner.

(2) One acceptable street tree per residential lot street frontage is required. If utilities or other obstacles make placement of a street tree in the right-of-way not feasible, a shade tree shall be installed in the front yard.

(Code 1994, § 18.44.090; Ord. No. 20, 2009, § 1, 7-21-2009)

Sec. 24-1147. Landscape provisions for multifamily, institutional, commercial, industrial and mixed-use.

In addition to other requirements of this chapter, the following provisions shall apply to multifamily, institutional, commercial, industrial and mixed-use properties and properties zoned R-H, C-L, C-H, I-L, I-M or I-H.

(1) All required on-lot and right-of-way landscaping shall be installed, prior to the issuance of the certificate of occupancy, by the developer unless otherwise provided in an approved development agreement. For existing properties which require a building permit, all required on-lot and right-of-way landscaping shall be installed by the property owner prior to issuance of a certificate of occupancy or issuance of a sales and use tax license.

(2) Required plantings.

a. The right-of-way or parkway shall consist of acceptable shade trees planted between the curb and sidewalk, or within ten feet of the back of the sidewalk in the case of an attached sidewalk, at a regular spacing of 35 feet on center for shade trees and 25 feet on center for ornamental trees.

b. Where trees are not already required pursuant to this chapter, one additional shade or evergreen tree shall be provided for every 2,000 square feet or fraction thereof of common open space. Two ornamental trees may be substituted for each shade or evergreen tree. Lakes or other water areas may be excluded for the purposes of calculating required tree quantities.

(3) Irrigation.

a. An irrigation system design shall be submitted as part of any required landscape plan. The irrigation system must meet a minimum distribution uniformity requirement, as set by the water and sewer department, through an irrigation audit performed by the water and sewer department or by a certified irrigation auditor prior to issuance of an occupancy certificate.

b. Rain sensors shall be installed as part of the irrigation system.

(Code 1994, § 18.44.100; Ord. No. 20, 2009, § 1, 7-21-2009)

Sec. 24-1148. Buffer yard and screening standards.

(a) These standards are intended to ensure that land uses of different intensity levels are buffered from one another through landscaping and other types of screening.

(b) Buffer yards shall be located on-site, along the outer perimeter of a lot or parcel, or in an outlot and may be required along all interior property lines for buffering purposes. Buffer yards shall be the minimum required.

(c) Only those structures used for buffering and/or screening purposes shall be located within a buffer yard. The buffer yard shall not include any paved area, except for pedestrian sidewalks or paths or vehicular access drives which may intersect the buffer yard at a point which is perpendicular to the buffer yard and which shall be the minimum width necessary to provide vehicular or pedestrian access.

(d) If a newly developing property is adjacent to a vacant or agricultural property of a different zone or in the county, then, as a minimum, standard buffer yard type A shall be required of the newly developing property until the adjacent property is developed, at which time the developer of the adjacent vacant property shall be responsible for providing any remaining portion of required buffer yard, based on the intensity levels of the land uses.

(e) If a newly developing property is adjacent to a lot that is developed, that portion of the buffer yard which has not previously been provided on the developed lot shall be required of the newly developing property.

(f) Land uses which are separated by a major collector or arterial street shall not be considered adjacent to each other for the purposes of buffer yards.

(g) Land uses within the same development are not intended to be buffered from one another unless the intensity levels warrant buffering.

(h) Walls used for buffering purposes shall ~~meet the provisions of section 18.44.140~~ preserve the sight distance and safety of motorists, pedestrians and bicyclists by requiring an unobstructed line of sight necessary for most drivers spotted at an intersection to see an approaching vehicle to avoid a collision.

(i) Fences used for buffering purposes shall be solid fences and ~~meet the provisions of section 18.44.140~~ preserve the sight distance and safety of motorists, pedestrians and bicyclists by requiring an unobstructed line of sight necessary for most drivers spotted at an intersection to see an approaching vehicle to avoid a collision.

(j) Buffer yards used as an alternative for building articulation shall be Type C and shall extend the entire length of the wall to be screened.

(k) In no event shall a buffer yard contain less than one shade tree, one ornamental tree or Type 3 shrub and two Type 1 shrubs.

(l) In the case of a nonconforming use, the buffering requirements shall be based on the nature of the

nonconforming land use, rather than the underlying zoning district.

(m) If city staff determines that the buffer yard requirement would cause crowding of trees or shrubs to the extent of harming the health of the plant material, the community development director may allow a reduction of the buffer yard requirements by relocation of required planting material elsewhere on-lot or cash in lieu of the required number of plantings.

(n) Existing plant material.

(1) The preservation of existing, healthy trees in buffer yards shall be allowed as a substitute for the required plant materials as provided for in the tree credit/debit table in section 24-1144, unless such trees are considered noxious or interfere with any existing utilities.

(2) When existing trees are located in only a part of the buffer yard, the number of trees or shrubs required may be reduced in proportion to the percentage of the area of the buffer yard occupied by existing trees.

(o) How to determine the required buffer yard.

(1) From Table ~~18.44-8~~ 24-1144.5 below, determine whether the proposed use is a low, medium, high or very high intensity.

(2) From Table ~~18.44-8~~ 24-1144.5, determine the intensity level of the adjacent land uses.

(3) Determine the required buffer yard type pursuant to Table ~~18.44-9~~ 24-1144.6 below based on the information provided by the land use intensity table (Table ~~18.44-8~~ 24-1144.5).

(4) To determine the total number of plants required, divide the linear footage of each side of the property requiring a buffer by 100. Dimensions less than or greater than 100 linear feet shall be required to provide plants based on a proportionate linear footage amount. When the number of plants required on the buffer yard types table results in a fractional amount, the fractional amount shall be rounded up to the nearest whole number. The plants required in a buffer yard shall be distributed along the length of the buffer. Groupings of plants are encouraged.

(5) The base standard in Table ~~18.44-10~~ 24-1144.7 below describes the standard buffer yard required for each type of buffer. The minimum required width is that width which has a plant multiplier of 1.00. The width of a buffer yard may vary, based upon the buffer yard types table, and the plant materials required in such a buffer shall be adjusted based on the width and related plant multiplier. For example, the base standard for buffer yard Type A is a 15-foot-wide buffer containing one shade tree, one ornamental tree or large shrub and five shrubs per 100 linear feet. The addition of a six-foot masonry wall will allow reduction of the required amount of plant materials by 50 percent. The addition of a three-foot berm or six-foot fence will allow reduction of the required plant materials by 25 percent. Other options not listed on the buffer yard types table, such as the combination of a berm and a wall, may be evaluated by the community development director as an equivalent design to those provided in the buffer yard types table.

(p) Land use intensity categories.

(1) If the particular land use is listed in Table ~~18.44-8~~ 24-1144.5 below, use the intensity category for that use.

(2) If the use is not listed in the land use intensity table, use the zoning district which most closely relates to that particular land use to determine the intensity category.

(3) For multi-use developments on a single lot, the intensity category for the use nearest a property line shall determine the buffering requirements for that yard.

(4) For mixed-use structures, that use which is of the higher intensity shall be used to determine the buffer yard type where that use is adjacent to a different use.

(5) The intensity category for land uses in PUDs shall be evaluated based on the use which is most similar.

(6) If the height of the proposed building on a newly developing or redeveloping property exceeds the allowable height in the subject zoning district through the use of a performance option or variance, the buffer yard shall be increased to the next highest buffer yard level.

Table ~~18.44-8~~ 24-1144.5. Land Use Intensity

Land Use or Zoning District	*Intensity Category*
Single-family, two-family, townhouse dwellings, vacant property, open space, pocket parks, bed and breakfasts	Low--residential and institutional
Multifamily dwellings, boardinghouses and roominghouses, mobile home communities, libraries, museums, public or quasi-public buildings, dormitories, fraternities, sororities, group quarters, SROs, cemeteries, columbariums, churches, emergency shelters, missions, schools	Medium--residential and institutional
Hospitals, regional and community parks, adult schools	High--institutional
Correctional facilities, gravel and mineral extraction	Very High--institutional
C-L District: permitted uses	Low--commercial
C-L District: design review uses	Medium--commercial
C-L District: use by special review uses	Medium--commercial
C-H District: permitted uses; design review uses	Medium--commercial
C-H District: use by special review uses	High--commercial
I-L District: permitted uses; design review uses	High--industrial
I-L District: use by special review uses	Very High--industrial
I-M District: permitted uses; design review uses	High--industrial
I-M District: use by special review uses	Very High--industrial
I-H District: permitted uses; design review uses	High--industrial
I-H District: use by special review uses	Very High--industrial

Table ~~18.44-9~~ 24-1144.6. Required Buffer Yards

	Low--Residential and	*Medium--Residential and*	*High--Institutional*	*Very High--Institution*	*Low--Commercial*	*Medium--Commercial*	*High--Commercial and*	*Very High--Industri*

	Institutional	*Institutional*		*al*			*Industrial*	*al*
Low--Residential and Institutional	None	A	C	D	B	C	D	E
Medium--Residential and Institutional	A	None	C	D	B	C	D	E
High--Institutional	D	C	None	B	D	C	B	B
Very High--Institutional	E	D	B	None	D	C	B	B
Low--Commercial	B	B	B	D	None	B	C	D
Medium--Commercial	C	C	C	C	B	None	B	C
High--Commercial and Industrial	D	D	B	B	B	B	None	C
Very High--Industrial	E	E	B	B	C	C	B	None

Table ~~18.44-10~~ 24-1144.7. Buffer Yard Types

Type--Base Standard (plants per 100 linear feet)	*Width Option**	Plant Multiplier**	Wall Option (6')	*Fence Option (6') or Berm Option (3')*
Buffer Yard A: 1 shade tree 1 ornamental tree or Type 3 shrub 5 Type 1 shrubs	10' = 15' = 20' = 25' =	1.25 1.00 0.90 0.80	0.5	0.75
Buffer Yard B: 2 shade trees 2 ornamental trees or Type 3 shrubs	10' = 15' = 20' = 25' =	1.25 1.00 0.90 0.80	0.5	0.75

1 evergreen tree 5 Type 2 shrubs	30' =	0.70		
Buffer Yard C: 3 shade trees 2 ornamental trees or Type 3 shrubs 3 evergreen trees 6 Type 2 shrubs 9 Type 1 shrubs	15' = 20' = 25' = 30' = 35' = 40' =	1.25 1.00 0.90 0.80 0.70 0.60	0.65	0.8
Buffer Yard D: 4 shade trees 4 ornamental trees or Type 3 shrubs 3 evergreen trees 25 Type 3 shrubs	20' = 25' = 30' = 35' = 40' = 45' =	1.25 1.00 0.90 0.80 0.70 0.60	0.75	0.85
Buffer Yard E: 5 shade trees 6 ornamental trees or Type 3 shrubs 4 evergreen trees 30 Type 3 shrubs	25' = 30' = 35' = 40' = 45' = 50' =	1.25 1.00 0.90 0.80 0.70 0.60	0.75	0.85

Shrubs: Type 1: 1'—4' tall at maturity; Type 2: 4'—8' tall at maturity; Type 3: over 8' tall at maturity

*BASE STANDARD for each type of buffer yard is that width which has a plant multiplier of 1.00.

**Plant multipliers are used to increase or decrease the amount of required plants based on providing a buffer yard of reduced or greater width, or by the addition of a wall, berm or fence. Fencing used for buffer yard purposes shall be at least 75 percent solid. Refer to ~~Appendix 18-I for~~ the buffer yard illustrations at the end of this section.

[GRAPHIC - Figure 18.44-2. Example Buffer Yard]

~~APPENDIX 18-I Buffer Yards~~

[GRAPHIC - Buffer Yards "A" and "B"]

[GRAPHIC - Buffer Yard "C"]

[GRAPHIC - Buffer Yard "D"]

[GRAPHIC - Buffer Yard "E"]

(Code 1994, § 18.44.110, app. 18-I; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 20, 2009, § 1, 7-21-2009)

Sec. 24-1149. Parking lot landscaping standards.

(a) The following provisions shall apply to all parking lots containing at least six parking spaces.

(1) Landscaped areas within parking lot interiors shall be located in such a manner as to divide and break up the expanse of paving.

(2) Landscape areas shall be protected from vehicular encroachment by the use of curbing. In the event it is not feasible to place curbing in front of vehicle parking, wheel stops shall be placed to prevent damage to any planting areas by vehicular overhang and to create an edge for the parking area.

(3) Shrubs and hedges shall be planted so as not to interfere with adjacent sidewalks.

(b) Parking lot screening.

(1) Parking lots shall be screened from view from adjacent properties and rights-of-way.

(2) Parking lot screening shall be at least three feet high and provide at least 60 percent opacity year-round for at least 75 percent of the frontage.

(3) Parking lot screening shall be located in an area at least ten feet wide, except as provided for through an approved administrative variance.

(4) Screening shall consist of landscape plantings, berming, fencing, walls or a combination thereof and shall ~~be subject to meeting all clear vision provisions of subsection 18.44.140(e) of this section~~ preserve the sight distance and safety of motorists, pedestrians and bicyclists by requiring an unobstructed line of sight necessary for most drivers spotted at an intersection to see an approaching vehicle to avoid a collision.

[GRAPHIC - Figure 18.44-3. Screening to 60 Percent Opacity]

(c) Landscape islands and medians.

(1) Parking rows shall contain either a landscape island on each end of the row or a median between adjacent rows or a combination of both.

(2) There shall be no more than 15 parking spaces in a continuous row on one side without being broken by a landscape island. The community development director may waive this requirement and permit a maximum number of 20 continuous spaces if the alternative parking lot design facilitates the flow of traffic, takes into consideration the lot configuration and otherwise meets the intent of these standards.

(3) Landscaped medians which have parking on both sides are permitted as an alternative to individual landscape islands. Pedestrian pathways across landscaped medians are required.

(4) The minimum inside curb to inside curb dimensions of a landscape island shall be six feet in width and 19 feet in length, or equal to the length of a parking stall if other than a standard stall dimension is used.

(5) The minimum inside curb to inside curb dimension of the width of a landscape median shall be six feet without a sidewalk. Additional width shall be added to accommodate any sidewalk within the median so that planting areas are at least six feet wide.

(6) Landscaped islands shall contain a minimum of one shade or ornamental tree per parking row, shrubs and living ground cover with a mature height of three feet or less. Rock and mulch may be placed around the live plantings but shall not exceed 50 percent of the landscape island.

(7) Landscape medians shall contain a minimum of one shade or ornamental tree per three parking spaces, shrubs and living ground cover with a mature height of three feet or less. Rock and mulch may be placed around the live plantings but shall not exceed 50 percent of the landscape median.

(8) Pedestrian pathways are required across all landscape islands and medians.

[GRAPHIC - Figure 18.44-4. Parking Lot Islands (top) and Medians (bottom)]

(d) Additional parking lot landscaping.

(1) For every 1,600 square feet of parking area and access drives, one two-inch caliper shade tree, or the equivalent from the following chart, shall be provided in and around the parking area. For example, a 4,000-square-foot parking area may use one three-inch caliper shade tree. Alternatives may be made

using two 2 1/2-inch caliper shade trees, three two-inch caliper shade trees or three 1 1/2-inch caliper ornamental trees. Equivalents or substitutions that result in a fractional number shall be counted as one additional tree.

(2) For the purposes of computing the total area of the interior of any parking lot, all areas within the perimeter of the parking lot shall be counted, including planting islands, curbed areas, corner areas, parking spaces and all interior driveways and aisles except those with no parking spaces located on either side. Landscaped areas situated outside of the parking lot may be counted toward meeting the interior landscaping requirement if such areas provide shade in the parking lot and if approved by the city.

Table ~~18.44-11~~ 24-1144.8. Tree Equivalents for Parking Areas

Tree Equivalents for Parking Areas	
2" caliper shade tree	1,600 square feet of parking area
2 1/2" caliper shade tree	2,500 square feet of parking area
3" caliper shade tree	4,000 square feet of parking area
1 1/2" caliper ornamental tree	1,400 square feet of parking area
6' evergreen tree	50 percent of required 2" caliper trees

(Code 1994, § 18.44.120; Ord. No. 20, 2009, § 1, 7-21-2009)

Sec. 24-1150. Perimeter treatment.

(a) Perimeter treatment shall be provided for all new development.

(b) A perimeter treatment plan shall be submitted for approval for all new developments, except for individual single-family or two-family dwellings which are not being approved as part of a subdivision application.

(c) Landscaping is a required perimeter treatment element. Fencing, berms or walls may also be incorporated as a perimeter treatment element.

(d) Perimeter treatment plantings and elements shall be located between the roadway and property line as part of the streetscape, or in an outlot if more than one lot or building envelope is being developed, owned and maintained by an owners' association (see figure 18.44-5 below).

[GRAPHIC - Figure 18.44-5. Perimeter Treatment for Residential and Institutional Next to Major Collector or Arterial Roadway]

(e) The design of a perimeter treatment plan shall give consideration to any existing perimeter treatments adjacent to the subject property and provide a design that ties in or is compatible with existing perimeter treatments.

(f) Perimeter treatment plans for community entryways, as identified in the city's entryway master plan, shall be designed to meet the established major collector or arterial entryway standards.

(g) Perimeter treatment shall be maintained in perpetuity by an owners' association.

(h) Required perimeter treatment shall be installed concurrent with other site infrastructure improvements, as per section 24-54, prior to building permit issuance. Fences and walls included as part of a perimeter treatment shall meet the provisions of subsection (j) of this section.

(i) Perimeter treatment areas shall contain the following plantings or an acceptable mix of trees and shrubs that provide comparable screening as determined by staff.

(1) Residential and institutional uses adjacent to major collector or arterial streets shall include the following plantings for every 100 linear feet as part of the perimeter treatment (not including street trees):

a. One shade or ornamental tree;

b. One evergreen tree; and

c. Three large shrubs (at least eight feet tall at maturity) and four medium shrubs (four to eight feet at maturity) or 12 small shrubs (less than four feet at maturity), or any combination of shrubs that provides an equivalent amount of screening.

(2) Residential and institutional uses adjacent to highways, freeways or expressways shall include the following plantings for every 100 linear feet as part of the perimeter treatment:

a. Three shade trees;

b. Two ornamental trees;

c. Two evergreen trees; and

d. Eight large shrubs (at least eight feet tall at maturity) or 12 medium shrubs (four to eight feet tall at maturity).

[GRAPHIC - Figure 18.44-6. Perimeter Treatment for Residential and Institutional Next to Highway, Freeway or Expressway]

(3) Commercial or industrial uses adjacent to major collector or arterial streets shall include the following plantings for every 100 feet as part of the perimeter treatment (not including street trees):

a. Five medium shrubs (four to eight feet tall at maturity); and

b. Ten small shrubs (less than four feet tall at maturity).

[GRAPHIC - Figure 18.44-7. Perimeter Treatment for Commercial and Industrial Next to Major Collector or Arterial Roadway]

(4) Commercial or industrial uses adjacent to highways, freeways or expressways shall include the following plantings for every 100 feet as part of the perimeter treatment:

a. Three shade trees;

b. One evergreen tree; and

c. Three large shrubs (at least eight feet tall at maturity) and five medium shrubs (four to eight feet tall at maturity).

(j) Fencing and walls as a part of perimeter treatment.

(1) A single fence or wall design used in perimeter treatment plans shall not be continued longer than 50 feet without variation or creating the appearance of variation by using changes in height, different material combinations, offset angles, articulation along the top and/or bottom of the fence, plant materials and/or berms.

(2) Where posts or columns are used to create variation, they shall protrude a minimum of six inches from the adjacent plane of the fence along the street side, and a maximum of one foot above the adjacent fence, such columns not to exceed seven feet in height. When fences are articulated, landscaped areas on the street side of the fence shall be contained in an outlot and maintained by the owners' association.

[GRAPHIC - Figure 18.44-8. Example Perimeter Treatment]

(Code 1994, § 18.44.130; Ord. No. 20, 2009, § 1, 7-21-2009; Ord. No. 44, 2011, § 1, 12-6-2011)

~~**Sec. 18.44.140 Reserved.**~~

~~**Editor's note** — Ord. No. 1, 2017, § 1(exh. A), adopted Jan. 17, 2017, repealed § 18.44.140, which pertained to fences, walls and hedges and derived from Ord. No. 20, 2009, § 1, 7-21-2009.~~

Sec. 24-1151. Boulevard median standards.

Boulevard medians, as provided in section 24-1030, shall meet the following standards:

(1) Unless utilities prevent otherwise, shade trees shall be planted at a regular spacing of 35 feet on center. Ornamental trees may be substituted based on the rates provided in the tree credit/debit table in section

24-1144.

(2) Evergreen trees are permitted as long as the median is of sufficient width to prevent the mature evergreen trees from overhanging the median.

(3) Xeric plants, decorative rocks and boulders, perennials, ornamental grasses and shrubs may be added to the median design but shall not substitute for any shade trees, unless utilities prevent trees from being planted in the median.

(4) Unless otherwise approved in writing by the public works director or his designee, tree species shall be selected from the tree, shrub and ground cover lists found in section 24-1144(a)(11).

(5) The location of all trees, shrubs and other material shall ~~meet the city's clear vision standards provided in section 18.44.140~~ preserve the sight distance and safety of motorists, pedestrians and bicyclists by requiring an unobstructed line of sight necessary for most drivers spotted at an intersection to see an approaching vehicle to avoid a collision.

(6) The developer shall be responsible for installing the median and irrigation and providing a perpetual maintenance mechanism for the median.

[GRAPHIC - Figure 18.44-10. Example of Boulevard Median Landscaping]

(Code 1994, § 18.44.150; Ord. No. 20, 2009, § 1, 7-21-2009; Ord. No. 8, 2010, § 1, 4-6-2010)

Sec. 24-1152. Reserved.

CHAPTER 12. DESIGN REVIEW PERFORMANCE STANDARDS

Sec. 24-1153. Purpose and intent.

The purpose of this chapter is to provide performance standards which will promote quality development and land uses which are located and designed to be compatible with their surroundings and protect the integrity of the city's historic structures, sites and districts for the benefit of the public welfare.

(Code 1994, § 18.46.010; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1154. Application.

These standards shall apply to all land use or development applications for design review, uses by special review and all uses on infill sites as required on the table of principal land uses in chapter 8 of this title as applicable and shall be in addition to other sections in this Development Code which may also apply to such applications.

(Code 1994, § 18.46.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1155. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Block face means all lots on one side of a block.

Compatible means having harmony in design, appearance, use and/or function of the characteristics of a building or structure, a neighborhood or an area. Design characteristics may include, but are not limited to, height, mass, scale, land use, architecture, color and materials.

Developing means a lot or grouping of lots or tracts of land with less than 60 percent of the perimeter boundary adjacent to existing development. For the purposes of this definition, public parks, natural areas and other such areas which are not eligible for further development shall be considered developed. Areas which were originally platted prior to 1978 and which have at least 75 percent of the lots in the development built on within this 20-year period shall also be considered developed. A replat of the original plat shall not affect the commencement of this 20-year period.

Dwelling or residence, secondary, means a second, freestanding residential building constructed or placed on an infill lot or tract of land which contains a principal residential building. See prior version for note.

Existing development means any development in the city once all public improvements, including water, sewer, streets, curb, gutter, street lights, fire hydrants and storm drainage facilities, are installed and completed.

Facade means the exterior face of a building.

Height (building or structure) means the vertical distance from grade at an exterior wall of a building or structure to the highest point of the coping of a flat roof, to the average height of the highest gable of a hipped roof, or to the highest point of a curved roof. This measurement shall be exclusive of church spires, chimneys, ventilators, pipes and similar appurtenances. For the purposes of this definition, the term "grade," as a point of measure, means either of the following, whichever yields a greater height of building or structure:

(1) The elevation of the highest ground surface within a five-foot horizontal distance from the exterior wall of the building when there is less than a ten-foot difference between the highest and lowest ground surface within a five-foot horizontal distance from said wall (see definitions in section 24-5).

(2) An elevation ten feet higher than the lowest ground surface within a five-foot horizontal distance from the exterior wall of the building, when there is greater than a ten-foot difference between the highest and lowest ground surface within a five-foot horizontal distance from said wall (see definitions in section 24-5).

Infill means a lot, or grouping of lots or tracts of land, with at least 60 percent of the perimeter boundary adjacent to existing development. If a right-of-way at least 120 feet in width, or streets designated on the comprehensive transportation plan as major collectors or arterial streets are adjacent to the subject lot, lots across such a street shall be excluded for the purposes of determining infill and at least 60 percent of the remaining boundaries of the site shall be adjacent to existing development for the lot to be determined to be infill.

Mass means the total volume in size and height of a building or structure.

Oriented means to locate or place a building or structure in a particular direction on a lot or site which shall generally be parallel to the adjacent street.

Primary entrance means the entrance to a building or structure which is intended to be the principal entrance and which shall typically be located on the front of the building or structure.

Scale means the proportional relationship of the size of a building or structure to its surroundings.

(Code 1994, § 18.46.030; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1156. Infill area design standards.

The following standards are intended for use in infill areas to ensure that new buildings and structures are compatible with existing buildings and structures and are not intended to lower standards for new construction and/or redevelopment. Development within infill areas shall also meet the architectural review standards as described in sections 24-1060 and 24-1061 to the degree they are appropriate and compatible with the surrounding neighborhood.

(1) Single-family and two-family dwellings. The following standards shall apply to single-family and two-family dwellings on infill sites:

a. New dwellings shall be oriented so that the front of the dwelling and the primary entrance are oriented toward the street on which the dwelling is addressed, in the same manner as the majority of the dwellings on the subject block face.

b. New dwellings shall be constructed or placed on a permanent foundation which shall be attached to the dwelling, and the area of attachment shall be enclosed with the same or compatible material used as the principal exterior material of the dwelling. Temporary perimeter skirting materials shall not be permitted to enclose the area of attachment.

[GRAPHIC - Figure 24-27. Block Face]

c. The scale, proportions, mass and height of new buildings shall be designed to be compatible with existing buildings in the surrounding area. The maximum height of new dwellings shall be limited

to 150 percent of the average height of the existing principal structures on the block face. If one or more of the principal structures on the block face is greater than 30 feet in height, the maximum height of new buildings shall be limited to the average height of the existing principal structures on the block face. The maximum length and width of walls for new structures shall be limited to 150 percent of the average length and width of perimeter walls of the existing principal structures on the block face. If the subject block face is vacant, or if the street separating two block faces which are opposite from one another is a local street or minor collector, the block face on the opposite side of the street shall also be used to determine average height and wall length and width of principal structures.

d. When the surrounding area contains a mix of land uses, architectural styles, materials and features, the dominant styles, materials and features of existing permanent principal residential structures in the area shall be used in new construction to provide a transition between existing and infill sites. If no dominant style exists, new construction shall be designed in a fashion that is compatible with the general nature of the area.

[GRAPHIC - Figure 24-28. Compatibility Through Similar Roof Pitch, Scale, Massing and Height]

e. Secondary dwellings shall be compatible with the principal residential building on the lot including using compatible architectural styles, materials and colors and shall be limited in size to not more than 60 percent of the footprint of the principal residential building, including attached garage area, and shall not exceed the existing height of the principal residential structure. Basement space in secondary dwellings shall be included in determining the size of a secondary dwelling. Such structures shall meet all other applicable provisions of this Development Code.

f. The location, orientation, scale and proportions of accessory structures shall be compatible with the existing dwelling on the lot.

g. The minimum setback shall be the average of the setback of the existing principal structures on the block face.

[GRAPHIC - Figure 24-29. Average Setback]

h. To the extent practicable, historic sidewalks shall be maintained where they exist, considering safety and legal requirements, and new sidewalks shall be located in the same manner as the prevailing sidewalk orientation of the block. New paving materials shall be compatible with existing materials, considering safety and legal requirements.

(2) Townhouse dwellings. The following standards shall apply to townhouse dwellings on infill sites:

a. Townhouses or attached single-family dwellings shall be attached in a configuration which does not exceed four dwellings, or 120 feet in length.

b. The site shall be designed to continue the functional relationship of the surrounding area, including such elements as front setbacks, entries facing the street, front porches and parking at the rear of the site.

c. The scale, proportions, mass and height of new buildings shall be designed to be compatible with existing buildings in the surrounding area. The maximum height of new buildings shall be limited to 150 percent of the average height of the existing principal structures on the block face. If one or more of the principal structures on the block face is greater than 30 feet in height, the maximum height of new buildings shall be limited to the average height of the existing principal structures on the block face. The maximum length and width of walls for new structures shall be limited to 150 percent of the average length and width of perimeter walls of the existing principal structures on the block face. If the subject block face is vacant, or if the street separating two block faces which are opposite from one another is a local street or minor collector, the block face on the opposite side of the street shall also be used to determine average height and wall length and width of principal structures.

d. The architectural characteristics of the surrounding area, such as roof style and pitch, window and

door detailing, materials and color shall be incorporated into the design of new buildings. When the surrounding area contains a mix of land uses, architectural styles, materials and feature, the dominant styles, materials and features of existing permanent principal residential structures in the area shall be used in new construction to provide a transition between existing and infill sites. Where no dominant style exists, new construction shall be designed in a fashion that is compatible with the general nature of the area.

e. Townhouses or attached single-family dwellings shall be independently served by separate utilities and services and, where feasible, shall have one vehicular access to serve the group of attached units. Where there is an existing adjacent alley, secondary vehicular access may be permitted from the alley if found to be substantially equivalent in safety and design and approved by the city.

f. The facades of all buildings containing townhouse dwellings shall be designed to incorporate changes in building or unit plane, height or elements such as balconies, porches, arcades or dormers to lessen the visual impact of the length and mass of the building.

[GRAPHIC - Figure 24-30. Four Attached Townhouse Units]

g. On sites containing multiple buildings, each building shall include predominant characteristics shared by all buildings within the development, so that the development forms a coherent design within the neighborhood and the community.

h. To the extent practicable, historic sidewalks shall be maintained where they exist, considering safety and legal requirements, and new sidewalks shall be located in the same manner as the prevailing sidewalk orientation of the block. New paving materials shall be compatible with existing materials, considering safety and legal requirements.

i. The minimum setback shall be the average of the setback of the existing principal structures on the block face.

(3) Multifamily dwellings. The following standards shall apply to multifamily dwellings on infill sites:

a. The site shall be designed to continue the functional relationship of the surrounding area, where applicable, including such elements as front setbacks, entries facing the street, front porches and parking at the rear of the site.

[GRAPHIC - Figure 24-31. Balconies Create Change in Building Plane, Provide Outdoor Space]

b. The scale, proportions, mass and height of new structures shall be designed to be compatible with existing adjacent residential buildings. The maximum height of new buildings shall be limited to 150 percent of the average height of the existing principal structures on the block face. If one or more of the principal structures on the block face is greater than 30 feet in height, the maximum height of new buildings shall be limited to the average height of the existing principal structures on the block face. The maximum length and width of walls for new structures shall be limited to 150 percent of the average length and width of perimeter walls of the existing principal structures on the block face. If the subject block face is vacant, or if the street separating two block faces which are opposite from one another is a local street or minor collector, the block face on the opposite side of the street shall also be used to determine average height and wall length and width of principal structures.

c. The architectural characteristics of the surrounding area such as roof style and pitch, window and door detailing, materials and color shall be incorporated into the design of new buildings. When the surrounding area contains a mix of land uses, architectural styles, materials and features, the dominant styles, materials and features of existing permanent principal residential structures in the area shall be used in new construction to provide a transition between existing and infill sites. Where no dominant style exists, new construction shall be designed in a fashion that is compatible with the general nature of the area.

d. The facades of buildings containing multifamily units shall be designed to incorporate changes in building or unit plane, height or elements such as balconies, porches, arcades or dormers to lessen

the visual impact of the length and mass of the building.

e. On sites containing multiple buildings, each building shall include predominant characteristics shared by all buildings within the development so that the development forms a coherent design within the neighborhood and the community.

f. All multifamily dwelling units shall have a usable, functional private patio, balcony or deck adjacent to the dwelling unit.

g. To the extent practicable, historic sidewalks shall be maintained where they exist, considering safety and legal requirements, and new sidewalks shall be located in the same manner as the prevailing sidewalk orientation of the block. New paving materials shall be compatible with existing materials, considering safety and legal requirements.

h. The minimum setback shall be the average of the setback of the existing principal structures on the block face.

(4) Commercial, institutional and industrial land uses. The following standards shall apply to commercial, institutional and industrial land uses in infill areas:

a. Buildings shall be designed to respect the bulk, scale and proportions of existing buildings on adjacent properties and, where desirable, serve as a transition to a different scale by stair-stepping building height, breaking up the mass of the building or shifting building placement on the site. The maximum height of new buildings shall be limited to 150 percent of the average height of the existing principal structures on the block face. If one or more of the principal structures on the block face is greater than 30 feet in height, the maximum height of new buildings shall be limited to the average height of the existing principal structures on the block face. The maximum length and width of walls for new structures shall be limited to 150 percent of the average length and width of perimeter walls of the existing principal structures on the block face. If the subject block face is vacant, or if the street separating two block faces which are opposite from one another is a local street or minor collector, the block face on the opposite side of the street shall also be used to determine average height and wall length and width of principal structures.

b. Exterior architectural elevations, including proposed roof style and pitch, window and door detail, materials and colors shall be compatible with the character of the surrounding area.

c. Building setbacks shall continue the prevailing setback pattern along the block. The minimum setback shall be the average of the setback of the existing principal structures in the block face.

[GRAPHIC - Figure 24-32. Prevailing Setback Along Street, Parking Behind Building]

d. Exterior building materials shall be similar to materials being used in the surrounding area. If dissimilar materials are proposed, other characteristics such as scale and proportion, form, architectural detailing and color shall be used to ensure that adequate similarity exists for the building to be compatible.

[GRAPHIC - Figure 24-33. Compatible Scale, Massing, Roof Lines and Architectural Detailing]

e. Uses which generate noise or glare, including outdoor vending machines, shall not be located in areas of the site which are visible from any residential land use.

f. Corporate or prototype architecture shall be modified to be compatible with the surrounding neighborhood if inconsistent, including modifications to architecture, materials, color, bulk, scale and height.

g. All sides of all buildings shall include design characteristics and materials consistent with those on the front or primary facade of the building.

h. In developments containing multiple buildings, each building shall include predominant characteristics shared by all buildings within the development so that the development forms a coherent design within the neighborhood and the community.

i. Building entrances shall be identifiable and directly accessible from a public sidewalk or sidewalk internal to the site.

j. Building walls in excess of 50 feet in length shall be permitted to be visible from a public right-of-way if a minimum of 20 percent of the length of the wall projects or recesses at a minimum depth equal to three percent of the length of the wall, and a change in materials and texture, or a permanent architectural treatment or feature is provided.

[GRAPHIC - Figure 24-34. Articulation Through Recesses and Projections]

k. To the extent practicable, historic sidewalks shall be maintained where they exist, considering safety and legal requirements, and new sidewalks shall be located in the same manner as the prevailing sidewalk orientation of the block. New paving materials shall be compatible with existing materials, considering safety and legal requirements.

(Code 1994, § 18.46.0406; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 4, 2006, § 1, 1-17-2006)

Sec. 24-1157. Specific use design standards.

(a) This section is intended to address special conditions or requirements which are related to the nature or character of certain land uses and which are intended to promote compatibility among land uses of different intensities.

(b) The following land uses are included in this section:

(1) Adult businesses;

(2) Bed and breakfasts;

(3) Convenience stores, gas stations and auto repair shops;

(4) Daycare and childcare centers;

(5) Drive-thru, drive-in and drive-up uses;

(6) Electronic messaging displays;

(7) Entertainment establishments;

(8) Food and beverage processing facilities (minor);

(9) Group homes;

(10) Kennels;

(11) Large commercial and institutional uses;

(12) Marijuana;

(13) Medical marijuana;

(14) Mixed uses--residential and commercial;

(15) Mobile homes and land lease communities;

(16) Outdoor display, including auto sales;

(17) Outdoor storage;

(18) Recreational vehicle/equipment, boat and personal vehicle storage;

(19) Recycling centers;

(20) Satellite earth station antennas;

(21) Self-serve storage.

(c) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Administrative official means an individual appointed by the city manager to administer and enforce the provisions of this chapter.

Adult business means any store, establishment, tavern, club or theater having a substantial portion of its stock in trade, books, magazines or other periodicals; video movies, films, slides or photographs; instruments, devices or paraphernalia; or live performances; which are characterized by their emphasis on matters depicting, describing or related to specified anatomical areas or specific sexual activities. For the purposes of this definition, a business shall not be considered an adult business if it carries less than 20 percent of its stock in adult materials and it prevents the public from viewing or observing merchandise or products that depict specified anatomical areas or specific sexual activities, as may be displayed by the products or on the packaging.

Specified anatomical areas means:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast above or below a point which would expose any portion of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specific sexual activities means:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;

(2) Human genitals in a state of sexual stimulation or arousal;

(3) Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;

(4) Masturbation, actual or simulated; or

(5) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (4) of this definition.

Drive-in or drive-thru means an establishment that, by design of physical features or by service or packaging procedures, encourages or permits customers to order and receive food or beverages while remaining in a motor vehicle for consumption on or off the site and which includes a menu board and audio or video speakers.

Drive-up means an establishment that by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive services or obtain or drop off products while remaining in a motor vehicle and which excludes a menu board and/or audio or video speakers.

Dwelling or residence, single-family means a detached principal building, other than a mobile home, designed for and used as a single dwelling unit by one family. The term "single-family residence" shall include a manufactured home which:

(1) Is partially or entirely manufactured in a factory;

(2) Is not less than 24 feet in width and 36 feet in length;

(3) Is installed on an engineered permanent foundation;

(4) Has brick, wood or cosmetically equivalent exterior siding and all exterior walls which provide a consistent, continuous facade from the bottom of the soffit (top of the wall section) downward to the top of the exposed perimeter wall, foundation or to grade, whichever is applicable; and has a pitched roof;

(5) Is certified pursuant to the National Housing Construction and Safety Standards Act of 1974, 42 USC § 5401 et seq., as amended, and all regulations enacted pursuant thereto, including any local modifications as are expressly allowed by federal law, or which has been certified by the state as being in compliance with the requirements of the uniform building code, as adopted by the state and as enforced and administered by the state division of housing.

Entertainment establishment shall be a land use designation in addition to the underlying principal land use and means:

(1) Any commercial establishment which shares a common wall or zero lot line property boundary with a residential land use or that is within 100 feet of a residential land use as measured from building to building, and:

a. Dispenses alcohol beverages on the premises and where amplified or live entertainment is provided; or

b. Does not dispense alcohol beverages but provides amplified or live entertainment either independent of or in conjunction with any other uses except where amplified sound is provided only as background entertainment and at levels not to interrupt normal conversation at or beyond the property line.

(2) Lawfully established commercial uses that meet the definition of the term "entertainment establishment," as set forth in this section, shall not be required to come into compliance with the entertainment establishment land use designation requirements if, subsequent to establishment and after March 15, 2006, a residential use is established within 100 feet of its property boundary as measured from building to building or that shares a common wall or zero lot line boundary, unless such commercial use has been abandoned for a period of 12 consecutive months or longer prior to the time the residential use is established.

(3) For the purposes of this section, all existing businesses that meet the definition of the term "entertainment establishment," as set forth in this section, shall be required to come into compliance with this chapter regardless of the date that an adjacent residential land use was lawfully established as of March 15, 2006.

Food and beverage processing facility (minor) means a manufacturing establishment primarily for packaging, producing or processing foods for human consumption that meets the definition of the term "food and beverage processing (major)," but which also dedicates a portion of the building footprint's square footage (a minimum of ten percent, up to 50 percent) to sales of food, beverages or other retail for on-premises purchase or consumption; and which occupies a site of three acres or less; and which cannot generate offensive odors, emissions, traffic or other off-site impacts, or shall otherwise be considered a major food processing facility.

Group home means a residence operated as a single-dwelling housing no more than eight individuals, licensed by or operated by a governmental agency, for the purpose of providing special care or rehabilitation due to physical condition or illness, mental condition or illness, or social or behavioral problems, provided that authorized supervisory personnel are present on the premises. Group homes shall not include alcoholism or drug treatment centers, work release facilities or other housing facilities serving as an alternative to incarceration. Group homes which are mandated by federal or state regulations shall be permitted as required by law.

Kennel means a land use designation independent of or in conjunction with another land use and means any premises, operated for compensation, where four or more dogs, cats or other household pets over three months of age are kept at a single time for the purpose of boarding, raising, sale, breeding, training, showing, treatment, day care or grooming, whether in special structures or runs or not.

Large retail uses means a retail use or any combination of retail uses in a single building, occupying more than 40,000 square feet of gross floor area.

Manufactured home. (See *Dwelling or residence, single-family.*)

Mixed-use means the development or use of a building or structure with two or more different uses, one of which shall be residential.

Mobile home means a detached, single-family housing unit that does not meet the definition of single-family dwelling or residence set forth in this chapter and which has all of the following characteristics:

(1) Designed for a long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities and has plumbing and electrical connections provided for attachments to outside systems;

(2) Designed to be transported after fabrication on its own wheels, on a flatbed or other trailer or on detachable wheels;

(3) Arrives at the site where it is to be occupied as a complete unit and is ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports or jacks, underpinned, connections to utilities and the like;

(4) Exceeding eight feet in width and 32 feet in length, excluding towing gear and bumpers;

(5) Is without motive power.

Mobile home accessory building or structure means a building or structure that is an addition to or supplements the facilities provided in a mobile home. It is not a self-contained, separate, habitable building or structure. Examples are awnings, cabanas, garages, storage structures, carports, fences, windbreaks or porches and patios that are open on at least three sides.

Mobile home community (or *mobile home park* or *land lease community*) means a site or tract of land which is at least eight acres in size held under one ownership and which is suited for the placement of mobile homes.

Mobile home site means a plot of ground within a mobile home community designed for the accommodation of one mobile home and its accessory structures.

Nonconforming mobile home communities means mobile home communities lawfully established and properly licensed by the city under the 1976 Code, or which were developed and used prior to and as of September 15, 1972, as a place where mobile homes were located for residential occupancy and, as of that date, the area must have been in compliance with any and all applicable city or county ordinances and regulations related to mobile home use of land.

Outdoor display means the display of products for sale outside a building or structure in areas to which customers have access, including vehicles, garden supplies, tires and motor oil, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials and lumber yards. Outdoor display areas in vehicular parking areas shall not impede access or reduce the number of required parking spaces.

Outdoor storage means the keeping, outside a building, of any goods, material, merchandise or vehicles in the same place for more than 24 hours. Outdoor storage shall not include the storing of junk or the parking of inoperable motor vehicles.

Parking slab means a paved parking space located off-street and designed to accommodate two standard-sized motor vehicles as provided in chapter 10 of this title.

Path or *pathway* means a designated route or path for nonmotorized use such as for walking or bicycling. The term "pathways" include both sidewalks and trails.

Patio means a hard-surfaced outdoor area on or adjoining a mobile home site not covered by a mobile home and not used for parking.

Recycling and collection center means a facility used for the collection and/or processing of reusable materials, including, but not limited to, metals, glass, plastic and paper.

Satellite earth station antenna means a reflective surface configured in the shape of a shallow dish, cone, horn or cornucopia which shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses, including, but not limited to, satellite earth stations, television reception only satellite dish antennas and satellite microwave antennas.

Utility box or pedestal means devices designed and intended to house equipment necessary for the delivery of utility services to commercial and/or industrial customers, including, but not limited to, electric transformers, telephone pedestals and boxes, cable television boxes, traffic control boxes and similar devices.

Utility service facility means any aboveground structures or facilities, excluding buildings, which are owned by a governmental entity, or any entity defined as a public utility for any purpose by the state public utilities commission and used in connection with the reproduction, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals. This shall also include facilities which provide similar services.

Utility stand means that part of a mobile home site which is used for the placement of the utility connections.

(Code 1994, § 18.46.050; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 6, 2006, § 1, 3-7-2006; Ord. No. 01, 2007, § 2, 1-2-2007; Ord. No. 25, 2010, § 1, 7-20-2010; Ord. No. 34, 2010, § 2, 10-19-2010; Ord. No. 20, 2013, § 2, 7-16-2013; Ord. No. 30, 2015, § 1(exh. A), 8-18-2015; Ord. No. 32, 2018, exh. B(18.46.050), 8-7-2018)

Sec. 24-1158. Adult businesses.

(a) The city council finds that certain areas within the city are zoned to allow for adult businesses. The

following shall apply to adult businesses:

(1) Regulation of adult businesses protects and preserves the health, safety and welfare of the patrons of such businesses, as well as the citizenry.

(2) Regulation of adult businesses furthers substantial governmental interests and is necessary because, in the absence of such regulation, significant criminal activity has historically and regularly occurred. This history of criminal activity has included prostitution, narcotics and liquor law violations, violent crimes against persons and property crimes.

(3) Adult businesses are frequently used for unlawful and unhealthful sexual activities, including prostitution and sexual liaisons of a casual nature.

(4) The concern over sexually transmitted diseases, including AIDS, is a legitimate health concern of the city which demands reasonable regulation of adult businesses in order to protect the health and well-being of the citizens.

(5) Adult businesses have a deleterious effect on both neighboring businesses and surrounding residential areas, causing an increase in crime and a decrease in property values.

(6) It is recognized that adult businesses have serious objectionable characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area.

(7) Restricted hours of operation will further prevent the adverse secondary effects of adult businesses.

(8) The city council desires to minimize and control these adverse effects and thereby protect the health, safety and welfare of the citizens; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; deter the spread of urban blight; and protect the citizens from increased crime.

(b) It is the purpose and intent to regulate adult businesses to promote the health, safety, morals and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of adult businesses within the city, thereby reducing or eliminating the adverse secondary effects from such adult businesses. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any constitutionally protected communicative materials, including sexually oriented materials. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(c) The following provisions shall apply to an adult business, service or entertainment establishment:

(1) Under age 18. No one under 18 years of age shall be admitted to an adult business, service or entertainment establishment offering any form of live entertainment, nor shall any employee, agent or independent contractor working on such premises where live entertainment is allowed be under 18 years of age.

(2) Adult entertainment shall only be available at adult business, service or entertainment establishments between the hours of 7:00 a.m. and 12:00 midnight, Monday through Saturday.

(3) An adult business, service or entertainment establishment shall be adequately buffered through the use of facade treatment, landscaping or fencing to minimize adverse impacts on commercial or residential uses, public parks, churches, public or private schools, preschools or childcare centers certified or licensed by the state, which are in proximity to such adult businesses. Buffering requirements shall be as provided in chapter 11 of this title.

(4) All outside lighting and signs shall be arranged, shielded and restricted so as to prevent adverse impacts and any nuisance on adjacent streets, commercial or residential uses, public parks, churches or public or private schools, preschools or childcare centers certified or licensed by the state.

(5) No adult business, service or entertainment establishment shall be operated or maintained within 1,000 feet of any school, preschool or childcare center certified or licensed by the state or church property, measured in a straight line without regard to intervening structures or objects from the closest property

line of such school, preschool or childcare center or church property to the property line of the adult establishment.

(6) No adult business, service or entertainment establishment shall be operated or maintained within 1,000 feet of a property zoned for residential use, a public park or any existing adult business, measured in a straight line without regard to intervening structures or objects, from the closest property line of the property zoned for residential use to the property line of the adult business, service or entertainment establishment.

(7) Not more than one adult business shall be operated or maintained in the same building, structure or portion thereof.

(d) Any adult business, service or entertainment establishment which engages in repeated or continuing violation of these regulations shall constitute a public nuisance subject to the provisions of chapter 9 of title 1 of this Development Code. For the purposes of these regulations, repeated violations shall mean three or more violations of any provision set forth herein within a consecutive 12-month period, dating from the time of any violation. Any continuing violation shall mean a violation of any provision set out herein lasting for three or more consecutive days.

(e) Nothing in this chapter shall be construed to apply to the presentation, showing or performance of any play, drama, ballet or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher education or similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of a state of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

(Code 1994, § 18.46.060; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1159. Kennels.

The following provisions shall apply to all kennels:

(1) No person or owner shall keep or operate any kennel or other animal establishment without having first applied for and received written land use permission therefor. Such permission is valid indefinitely unless revoked as provided in this section. For the purposes of this section, every premises so used is a separate enterprise and requires separate land use approval.

(2) Before any land use approval for a kennel or other animal establishment shall be issued and periodically thereafter, as deemed necessary by the city police department, an animal control officer shall conduct a physical inspection of the proposed kennel or other animal establishment and determine whether it is in compliance with the requirements of this section. Land use approval may be denied or revoked if:

a. The applicant has made any material misrepresentations or has falsified the application.

b. The applicant, directly or otherwise, refused to allow the animal control officer to make reasonable inspection of the facility.

c. The applicant has been previously convicted for violation of chapter 7 of this title or state standards pursuant to the Pet Animal Care and Facilities Act as called out in C.R.S. § 35-80-101 et seq.

d. The animal control officer determines, after inspection, that the kennel or other animal establishment does not comply with the relevant requirements of chapter 7 of this title and/or this section.

(3) All kennels or other animal establishments shall provide the following:

a. Adequate shelter from the elements for the animals.

b. Adequate facilities for preventing the escape of animals from the premises.

c. Adequate facilities for keeping the animal environment clean and free of filth.

d. Confinement and treatment of animals shall be in a manner that is humane and appropriate, which shall include the following minimum standards for dog enclosures:

1. Each individually enclosed dog that does not have access to a run or exercise area must be provided a minimum amount of floor space, calculated as follows: find the mathematical square of the sum of the length of the dog in inches (measured from the tip of the nose to the base of the tail) plus six inches; then divide the product by 144 and multiply by two. The calculation is: (length of dog in inches + six) (squared) divided by 144 times two equals required floor space in feet. The maximum required floor space is 24 square feet and the minimum floor space is six square feet.
2. Each primary enclosure, in which a dog spends the majority of its day, shall have the following minimum floor space requirements:

Extra-small dogs up to 10" high	4.5 sq. ft.
Small dogs up to 16" high	6.0 sq. ft.
Medium dogs up to 22" high	9.0 sq. ft.
Large dogs up to 26" high	12.0 sq. ft.
Extra-large dogs up to 30" high	16.0 sq. ft.
Giant breeds over 30" high	18.0 sq. ft.

(i) The height of the enclosure shall be 1 1/2 times the height of the dog at the shoulder, with a maximum height required of 48 inches and a minimum height of 18 inches. If more than one dog occupies these primary enclosures, space will be calculated for the largest dog, with each additional dog needing one-half of the minimum space required. These dimensions are exclusive of the exercise area which is also required for each animal housed in such an enclosure. The exercise area or run may be contiguous with the primary enclosures specified above. Each dog housed in the specified primary enclosure must be provided the opportunity to exercise for a minimum of 60 minutes over a 24-hour period. An exercise plan is required pursuant to subsection (3)d.4 of this section.

3. If crates are used with the written consent of the owner to house his dogs, including weaned puppies, the minimum space requirements are as follows: dogs, regardless of weight, will have a crate that is a minimum of the length of the dog from the tip of its nose to the base of its tail, plus three inches while the dog is standing, and shall have space enough for the dog to turn around and lie down. Crates of such minimum dimensions shall be used to house only one dog. An exercise area or run must be provided for animals housed in a crate; crated dogs shall be provided an opportunity to exercise for a minimum of 60 minutes over a 24-hour period. An exercise plan is required pursuant to subsection (3)d.4 of this section.
4. Dog runs and exercise areas shall meet the following minimum space requirements:

(i) The length of the runs and exercise areas shall be a minimum of three times the length of the dog from the tip of its nose to the base of its tail; the width shall allow the dog to turn around easily; and the height shall be 1 1/2 times the height of the dog at the shoulders, with the maximum height required of 48 inches, the minimum of 18 inches.

(ii) Indoor/outdoor runs that have the primary enclosure and the exercise area in combination shall for measuring purposes be considered an exercise run and shall be measured from the extreme inside to the extreme outside for length determination.

(iii) Outdoor or indoor runs used as a combined primary enclosure and exercise area shall be measured from one extreme end to the other extreme end for length. The same criteria will apply to freestanding runs used for exercise areas only.

e. Adequate supervision of the animals in the kennel facility must be present to the following

standards:

1. There must be a minimum of one human supervisor (at least 16 years of age), present at all times and able to directly view each enclosure or common area where dogs from different owners are commingled.
2. If more than 15 dogs are housed in a common area or enclosure, there must be at least one adult supervisor present for each 15 dogs housed within each enclosure or common area, with a maximum of 60 dogs housed in any enclosure or common area at a single time.
3. Where after-business hours or overnight boarding care is provided, the applicant must provide an animal care and supervision plan if human supervision is not provided during this period. Such plan must address how animal care and emergency needs will be managed in the absence of human supervision.

f. Evidence that the operation is in compliance with all other state standards pursuant to the Pet Animal Care and Facilities Act, as called out in C.R.S. § 35-80-101 et seq.

For the purposes of this section, commercial businesses for which the principal use is either a pet shop or grooming operation, a pet management plan may be submitted in lieu of compliance with the confinement and exercise standards within this section. Such plan must demonstrate compliance with animal care and welfare standards as provided in chapter 7 of this title and include a description, at a minimum, of pet enclosure accommodations related to area, location, duration of enclosure periods and access to food, water and shelter.

g. Failure to operate in compliance with the provisions and standards as set forth herein as observed and reported by the chief of police, an animal control officer, or as set forth in this or other chapters of this Development Code shall be a violation of this chapter and subject to the fines and penalties as set forth in chapter 10 of title 1 of this Code.

(4) Nonconforming uses: properties on which a kennel operation was lawfully established under prior Code provisions, and for which said use has not been abandoned for the most recent 12-month period from the effective date of the ordinance codified herein may continue such use until any one of the following conditions occurs:

a. A change of ownership of the business;

b. Conviction of any violation of any section of this Development Code associated with the operation of the business, including, but not limited to, nuisance conditions or behaviors;

c. Physical expansion of the structure or area within which the business is operating; or

d. One year from the effective date of the ordinance codified herein setting forth kennel uses and a design review land use designation.

(Code 1994, § 18.46.065; Ord. No. 01, 2007, § 2, 1-2-2007)

Sec. 24-1160. Bed and breakfasts.

The following provisions shall apply to bed and breakfast uses:

(1) Cooking facilities, including stoves, hot plates or microwave ovens, shall not be permitted in guest rooms.

(2) Meals or food served in the bed and breakfast shall be prepared in a central kitchen on-site and served solely for bed and breakfast occupants.

(3) Individual rooms in a bed and breakfast shall not be rented more than twice during a 24-hour period.

(Code 1994, § 18.46.070; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1161. Car and truck washes.

The following provisions shall apply to all car and truck washes:

(1) Bays shall be located so that they are perpendicular to the public right-of-way or screened from view if

on a corner site.

(2) No auto repair shall be conducted within a car or truck wash bay.

(3) All-over spray shall be contained on-site.

(4) Operating characteristics of car and truck washes, such as hours of operation and the use of lighting, shall be conducted in such a manner that is compatible with surrounding land uses.

(5) Other applicable requirements for car and truck washes may be found in the city's storm drainage and water department standards and criteria.

(Code 1994, § 18.46.080; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1162. Convenience stores, gas stations and auto repair shops.

(a) The following provisions shall apply to all convenience stores and gas stations:

(1) No more than one access drive shall be permitted for each street frontage.

(2) All light sources, including canopy, perimeter and flood lights and lenses, shall be shielded or fully recessed within the roof canopy so that light is contained on-site.

(3) If on-site dispensing of fuel is provided, the design, location and operation of these facilities shall be compatible with the design, location and operation of the convenience store.

(4) The maximum height of a canopy shall be 17 feet, measured from grade to the highest point on the canopy. Canopies that have a pitched roof shall be a maximum height of 24 feet measured from grade to the highest point on the canopy. Canopies shall be architecturally compatible with the convenience store building and all other accessory structures on the site through the use of the same or complementary materials, architectural style and colors. The material used on the underside of the canopy shall not be highly reflective. Setbacks for the canopy shall be measured from the outside edge of the canopy.

(5) Adequate stacking space shall be provided on-site without using any portion of the adjacent street or alley for stacking. Stacking shall not occur in required setbacks.

(6) Dispensing pumps and adjacent parking, fueling or service areas shall not be located within the property setbacks.

(7) If the convenience store, gas station or auto repair use is immediately adjacent to residential zoned property or existing residential uses on at least two sides, the hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. daily.

(b) In addition to the requirements in subsection (a) of this section, the following requirements shall apply to auto repair uses:

(1) Areas for overnight vehicular storage shall be enclosed or screened from the view of adjacent properties and the public right-of-way except when located in the Medium Intensity (I-M) or High Intensity (I-H) Industrial Zoning Districts.

(2) Where a service station abuts residential uses or residential zones, a minimum 20-foot side yard setback and a minimum 25-foot rear yard setback shall be provided.

(3) No used or discarded automotive parts or equipment, or disabled, junked or wrecked vehicles shall be located outside any structure.

(4) Landscaping, screen walls, berms, placement of the use or other site design techniques shall be used to screen cars being serviced or waiting for service and to screen overhead doors from view from the public right-of-way.

(5) Auto repair uses within an integrated shopping center shall have an architectural style consistent with the theme established in the center. The architecture of any auto repair use shall be compatible with surrounding uses in form, materials, color and scale. The location, size and design of the auto repair use shall be compatible with and have minimal adverse impact on the use of surrounding properties. Overhead doors shall be constructed of nonreflective materials.

(Code 1994, § 18.46.090; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1163. Daycare, childcare centers.

The following provisions shall apply to all daycare or childcare centers:

(1) Indoor floor space and outdoor play area shall be as required by state regulations governing daycare or childcare centers.

(2) An off-street vehicular bay or driveway shall be provided for the purpose of loading and unloading children.

(3) In addition to the parking space requirements of chapter 10 of this title, adequate space shall be provided on-site for parking vans or buses which may be used to transport children to and from the daycare center.

(Code 1994, § 18.46.100; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1164. Drive-thru, drive-in and drive-up uses.

The following provisions shall apply to all drive-thru, drive-in and drive-up uses, including, but not limited to, banks, restaurants and emission testing centers:

(1) Drive-thru, drive-in or drive-up aisles shall be designed to provide sufficient stacking area, outside the setbacks, to accommodate a minimum of five vehicles, and shall be located so that cars waiting in the aisles do not impede vehicular access to or circulation on the site or the public right-of-way.

(2) All aisles shall be a minimum of 12 feet wide.

(3) Pedestrian walkways shall not intersect the drive-thru, drive-in or drive-up aisles, but when there is no other reasonable alternative, such walkways shall have clear visibility and shall be identified by special paving or other treatment.

(4) Landscaping, screen walls, berms, placement of the use or other site design techniques shall be used to screen cars waiting in the drive-thru, drive-in or drive-up aisles from the public right-of-way and shall be used to minimize the visual impact of drive-thru, drive-in or drive-up aisles, menu boards and directional signs.

(5) Drive-thru, drive-in or drive-up uses within an integrated shopping center shall have an architectural style consistent with the theme established in the center. The architecture of any drive-thru, drive-in or drive-up structure shall be compatible with surrounding uses in form, materials, color and scale. The location, size, design and hours of operation of the drive-thru, drive-in or drive-up use shall be compatible with and have minimal adverse impact on the use of surrounding properties.

(6) No drive-thru, drive-in or drive-up aisles shall exit directly onto, or gain direct access from, a public right-of-way, except when approved by both the public works and community development departments.

(Code 1994, § 18.46.110; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1165. Electronic messaging displays (EMD).

The following provisions shall apply to all electronic messaging displays:

(1) Electronic messaging displays are allowed only in the C-L, C-H, I-L, I-M, I-H and PUD zone districts. An EMD sign in the C-L zone district is limited in hours of operation from 6:00 a.m. to 10:00 p.m.

(2) The area of the EMD shall not exceed 50 percent of a sign face.

(3) The EMD shall contain static messages only, changed only instantly or through dissolve or fade transitions, or with the use of other subtle transitions and frame effects that do not have the appearance of moving text or images, and which may otherwise not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design or pictoral segment of the sign, including the movement of any illumination or the flashing, scintillating or varying of light intensity.

(4) The displayed message shall not change more frequently than once per 30 seconds, except for time-and-

temperature signs, which shall not change more frequently than once per three seconds.

(5) The EMD shall have automatic dimmer software or solar sensors to control brightness for nighttime viewing. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare. Lighting from the message module shall not exceed 600 nits (candelas per square meter) between dusk to dawn as measured from the sign's face.

(6) Applications for sign permits containing an electronic display shall include the manufacturer's specifications and initial nit (candela per square meter) rating and the method of dimming.

(7) Messages displayed on the sign module shall only direct attention to a business, product, service or entertainment conducted, sold or offered on the premises on which the sign is located. Community emergency alerts, such as traffic hazards, inclement weather or Amber Alerts, are exempt from this requirement.

(8) All existing electronic message displays that contain an electronic changeable copy module which does not comply with the provisions of this section shall be made to conform to the duration of copy provisions upon the effective date of the ordinance approving such provisions.

(9) Any premises that contains an outdoor electronic message display shall not be allowed any temporary signs (per section 24-1337).

(Code 1994, § 18.46.111; Ord. No. 34, 2010, § 2, 10-19-2010)

Sec. 24-1166. Entertainment establishments.

The following provisions shall apply to all entertainment establishments:

(1) The operating characteristics of the entertainment establishment shall be compatible with the predominant nature and characteristics of the surrounding area. For the purposes of this section, operating characteristics shall include, but not be limited to:

a. Hours of operation;

b. Lighting;

c. Signage; and

d. Parking.

(2) There must be evidence, provided that the entertainment establishment use will not create unreasonable off-site environmental impacts such as noise, odor, smoke, vibration, heat or glare.

(3) A security and property maintenance plan for the entertainment establishment must be, provided that demonstrates how patrons, employees and users of the business will be managed to ensure minimal conflict with or impact to adjacent properties and the surrounding area.

(4) Nonconforming uses. Properties on which an entertainment establishment use was lawfully established under prior Code provisions before the designation of such use as an entertainment establishment, and for which said use has not been abandoned for the most recent 12-month period from the effective date of the ordinance establishing the entertainment establishment land use, may continue such use until any one of the following conditions occurs:

a. A change of ownership of the business operating the entertainment establishment;

b. Conviction of a liquor license violation at the business location;

c. Conviction of any violation of any provision of this section associated with the operation of the business, including, but not limited to, nuisance conditions or behaviors;

d. Physical expansion of the structure or area within which the business is operating; or

e. One year from the effective date of the ordinance establishing the entertainment establishment land use designation.

(Code 1994, § 18.46.115; Ord. No. 6, 2006, § 1, 3-7-2006; Ord. No. 44, 2011, § 1, 12-6-2011)

Sec. 24-1167. Food and beverage processing facilities (minor).

The following provisions shall apply to minor food and beverage processing facilities, which may include, but are not limited to, such uses as small-scale breweries and wineries, industrial bakeries, tortilla manufacturers and the like.

(1) Commercial elements of the use shall be visually and physically accessible to the public realm and designed as the most prominent aspect of the structure and/or use. Commercial elements include the sale of food, beverages and/or other retail for on-premises purchase and/or consumption, as a required component of minor food and beverage processing facilities. The use of architecture, sidewalks, landscaping and parking shall be designed in such a manner as to define and emphasize these commercial components while de-emphasizing the manufacturing and other aspects of the facility.

(2) Loading and storage areas, where otherwise allowed by this Development Code, shall be separated from public entrances and areas associated with the commercial elements of a minor food and beverage processing facility and shall be located at the rear of the facility and screened from rights-of-way and off-site uses, to the extent feasible.

(3) Traffic by heavy trucks and/or rail shall be separated from public entrances and areas to avoid regular conflicts with the public and commercial aspects of the use.

(4) Environmental impacts, such as odor, heat, glare, noise, vibration and other such emissions or impacts shall be reasonably contained on-site and not discernable at or beyond the property line. The inability to confine such impacts to the site would qualify this use as a major food processing use.

(5) The applicant for a minor food and beverage processing facility shall demonstrate that a portion of the building footprint's square footage, equal to or greater than ten percent and no more than 50 percent, is dedicated to sales of food, beverages and/or other retail or services for on-premises purchase and/or consumption.

(6) These design review criteria are not exclusive and shall be considered as additional standards to other requirements of this chapter as may be relevant to the site and use, such as, but not limited to, those for entertainment establishments, drive-thru windows or mixed uses.

(Code 1994, § 18.46.117; Ord. No. 25, 2010, § 1, 7-20-2010)

Sec. 24-1168. Group homes.

The following provisions shall apply to all group homes:

(1) Group homes in the R-L and R-M Zoning Districts shall be separated at least 750 feet in all directions from another group home.

(2) Outdoor areas for use by residents of the group home shall be enclosed for safety purposes using landscaping, fencing, walls or a combination thereof with controlled points of entry provided.

(Code 1994, § 18.46.120; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1169. Large commercial and institutional uses.

(a) The following provisions shall apply to commercial and institutional land uses, or any combination of such uses in a single building occupying more than 20,000 square feet of gross floor area, and to additions to existing large commercial and institutional uses which would increase the total gross floor area of the building which houses such existing uses by 25 percent or more:

(1) *Building facade.*

a. *Facade articulation.* In lieu of facade articulation as required under section 24-1060(2), a large commercial or institutional building may be designed to increase the number of building elements not otherwise required in section 24-1060(10). Each required recess or projection shall be substituted for by incorporating a building element that would accomplish the intent of visually breaking up a large flat wall area. Such elements shall be proportionately spaced around the building and walls to achieve visual interest. When adjacent to a residential land use, increased landscaped

setbacks may be used to count as one building element. In no event shall there by any credit given for using landscaping and/or building design elements that are otherwise required under the provisions of this Development Code.

b. *Ground floor*. Large commercial and/or institutional uses occupying more than 20,000 square feet of gross floor area and which front on or are visible from a public street or right-of-way shall provide display windows, entries or awnings along a minimum of 50 percent of the horizontal length of the building facade on the ground floor.

(2) *Materials and colors*.

a. Materials, color or texture shall be used to create visual interest by developing a pattern for the exterior of the building. Patterns should repeat at intervals of no more than 30 feet either horizontally or vertically.

b. Refer to the general performance standards in chapter 9 of this title for additional standards on materials and color.

(3) *Entryways*. Customer entryways shall be visible and easily defined by using treatments such as overhangs, awnings, canopies, display windows or planters.

(4) *Parking*.

a. No more than 75 percent of the required parking shall be located on a single side of a building.

b. Refer to the off-street parking and loading standards in chapter 10 of this title for additional parking standards.

(b) Large commercial and institutional land uses over 100,000 square feet in size, or buildings in commercial centers where the center has at least 100,000 square feet in gross floor area, shall require use by special review by the planning commission under the provisions of section 24-481.

(Code 1994, § 18.46.130; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 4, 2006, § 1, 1-17-2006)

Sec. 24-1170. Commercial cultivation and sale of medical marijuana prohibited.

(a) *Legislative intent and authority*.

(1) It is the intent of this section to prohibit certain land uses related to medical marijuana in the city and, in furtherance of its intent, the city council makes the following findings:

a. The Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, et seq., clarifies state law regarding the scope and intent of article XVIII, section 14 of the Colorado Constitution.

b. The Colorado Medical Marijuana Code specifically authorizes the governing body of a municipality to "vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses."

c. The Colorado Medical Marijuana Code specifically authorizes a municipality "to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses . . .based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana."

d. Based on careful consideration of the Colorado Medical Marijuana Code, article XVIII, section 14 of the Colorado Constitution and the potential secondary effects of the cultivation and dispensing of medical marijuana and the retail sale, distribution and manufacturing of medical marijuana-infused products, such land uses have an adverse effect on the health, safety and welfare of the city and its inhabitants.

(2) The city's authority to adopt this section is found in the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, et seq.; the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101, et seq.; C.R.S. § 31-23-101, et seq., (municipal zoning powers); C.R.S. §§ 31-15-103 and 31-15-401, (municipal police powers); C.R.S. § 31-15-501, (municipal authority to regulate businesses); and the city Home

Rule Charter.

(b) *Definitions*.

Caregiver shall have the same meaning as set forth in C.R.S. § 25-1.5-106(2).

Medical marijuana shall mean marijuana that is grown and sold pursuant to the provision of C.R.S. title 12, art. 43.3.

Medical marijuana center shall mean a person, business or any other entity licensed pursuant to C.R.S. title 12, art. 43.3, to operate a business as described in C.R.S. § 12-43.3-402, that sells medical marijuana to registered patients or caregivers as authorized in the Colorado Revised Statutes, but is not a caregiver.

Medical marijuana dispensary shall have the same meaning as the term "medical marijuana center" as set forth above.

Medical marijuana-infused product shall mean a product infused with medical marijuana that is intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments and tinctures.

Medical marijuana-infused products manufacturer shall mean a person, business or any other entity licensed pursuant to C.R.S. title 12, art. 43.3, to operate a business as described in C.R.S. § 12-43.3-404.

Optional premises cultivation operation shall mean a person, business or any other entity licensed pursuant to C.R.S. title 12, art. 43.3, to operate a business as described in C.R.S. § 12-43.3-403.

Patient shall mean a person who has a debilitating medical condition and who has been provided with a registry identification card pursuant to the Colorado Revised Statutes to obtain medical marijuana.

Primary caregiver shall have the same meaning as set forth in C.R.S. § 25-1.5-106(2).

(c) Medical marijuana dispensaries, medical marijuana centers, medical marijuana-infused products manufacturers and optional premises cultivation operations are prohibited within the city.

(d) Medical marijuana dispensaries, medical marijuana centers, medical marijuana-infused products manufacturers and optional premises cultivation operations may not be operated as a primary land use, as an incidental activity to another lawful land use or as a home occupation.

(Code 1994, § 18.46.135; Ord. No. 50, 2009, § 1, 10-20-2009; Ord. No. 21, 2010, § 1, 6-15-2010; Ord. No. 20, 2013, § 1, 7-16-2013)

Sec. 24-1171. Activities, restrictions, limitations and prohibitions regarding the possession, consumption, transfer and cultivation of medical marijuana.

(a) Caregivers within the city are authorized to engage in only those activities regarding medical marijuana which are set forth in section 14 of article XVIII of the Colorado Constitution, as defined and limited by C.R.S. § 25-1.5-106. Caregivers within the city are subject to any and all restrictions, limitations and prohibitions regarding the possession, consumption, transfer and cultivation of medical marijuana as set forth in C.R.S. § 25-1.5-106, and all administrative rules and regulations promulgated by state agencies.

(b) Patients within the city are authorized to engage in only those activities regarding medical marijuana which are set forth in section 14 or article XVIII of the Colorado Constitution, as defined and limited by C.R.S. § 25-1.5-106. Patients within the city are subject to any and all restrictions, limitations and prohibitions regarding the possession, consumption, transfer and cultivation of medical marijuana as set forth in C.R.S. § 25-1.5-106, and all administrative rules and regulations promulgated by state agencies.

(Code 1994, § 18.46.136; Ord. No. 21, 2010, § 1, 6-15-2010)

Sec. 24-1172. Marijuana, operation of commercial marijuana establishments prohibited.

(a) Legislative intent and authority.

(1) It is the intent of this section to prohibit certain land uses related to marijuana in the city and, in furtherance of its intent, the city council makes the following findings:

a. Article XVIII, section 16 of the Colorado Constitution (Amendment 64) specifically authorizes the governing body of a municipality to "prohibit the operation of marijuana cultivation facilities,

marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores through the enactment of an ordinance."

b. Based on careful consideration of the Colorado article XVIII, section 16 of the Colorado Constitution and the potential secondary effects of the cultivation and dispensing of marijuana and the retail sale, distribution and manufacturing of marijuana-infused products, such land uses have an adverse effect on the health, safety and welfare of the city and its inhabitants.

(2) The city's authority to adopt this section is found in article XVIII, section 16 of the Colorado Constitution; the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101, et seq.; C.R.S. § 31-23-101, et seq. (municipal zoning powers); C.R.S. §§ 31-15-103 and 31-15-401 (municipal police powers); C.R.S. § 31-15-501 (municipal authority to regulate businesses); and the city Home Rule Charter.

(b) Definitions. Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in article XVIII, section 16 of the Colorado Constitution. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Marijuana or *marihuana* means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or its resin, including marihuana concentrate. The term "marijuana" or "marihuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

Marijuana cultivation facility means an entity licensed to cultivate, prepare and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities and to other marijuana cultivation facilities, but not to consumers.

Marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility or a retail marijuana store.

Marijuana product manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments and tinctures.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

(c) Marijuana establishments, including marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores, are prohibited within the city.

(d) Marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores may not be operated as a primary land use, as an incidental activity to another lawful land use or as a home occupation.

(e) The city designates the department of finance as the entity responsible for processing applications for licenses to operate a marijuana establishment. Pursuant to the prohibitions set forth above, any application for a license to operate a marijuana establishment shall be deemed denied upon the date of submission.

(f) Violations of this section ~~shall constitute a Code infraction violation and~~ shall be ~~punished~~ punishable pursuant to chapter 10 of title 1 of this Code.

(g) The establishment, operation and continuation of any activity in violation of the terms of this article is specifically determined to constitute a public nuisance, may be abated by the city as a nuisance and may be enjoined

by the city in an action brought in a court of competent jurisdiction in the county in which such activity occurs. The remedies set forth in this section shall not be exclusive, shall be cumulative and shall be in addition to any other remedy available at law or in equity.

(Code 1994, § 18.46.137; Ord. No. 15, 2013, § 1, 6-4-2013)

Sec. 24-1173. Marijuana; private clubs prohibited.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Marijuana shall have the same meaning as set forth in section 24-1172.

Private marijuana club means the consumption of marijuana by persons assembled within a commercial or industrial structure, where such consumption is permitted, encouraged, promoted, enabled or condoned by persons assembled therein, whether such consumption is the primary intended purpose or an intended purpose incidental to other reasons for assembly therein.

(b) It shall be unlawful for any person or association of persons to operate any private marijuana club.

(c) This section shall be liberally construed to prevent and prohibit the establishment, operation and continuation of any activity identified as a private marijuana club, but shall not be construed to criminalize lawful activity under article XVIII, section 16 of the Colorado Constitution.

(d) Violations of this section ~~shall constitute a Code infraction violation and~~ shall be ~~punished~~ punishable pursuant to chapter 10 of title 1 of this Code.

(e) The establishment, operation and continuation of any activity in violation of the terms of this section is specifically determined to constitute a public nuisance, may be abated by the city as a nuisance and may be enjoined by the city in an action brought in a court of competent jurisdiction in the county in which such activity occurs.

(Code 1994, § 18.46.138; Ord. No. 16, 2013, § 1, 6-4-2013)

Sec. 24-1174. Noncommercial marijuana and medical marijuana cultivation.

(a) Intent, authority and applicability.

(1) *Intent*. It is the intent of this section to prohibit certain land uses related to marijuana, and in furtherance of its intent, the city council makes the following findings:

a. Article XVIII, section 14 of the Colorado Constitution authorizes the cultivation of medical marijuana and C.R.S. § 12-43.3-101, clarifies state law regarding the scope and extent of article XVIII, section 14 of the Colorado Constitution;

b. Article XVIII, section 16 of the Colorado Constitution authorizes the cultivation of marijuana for nonmedical use.

c. The city has the power and authority to make and publish ordinances which are necessary and proper to provide for the safety and preserve the health of the citizens of the city not inconsistent with the laws of the state.

d. Both section 14 and section 16 of article XVIII of the Colorado Constitution provided specific direction regarding the requirements related to growing marijuana for personal use, including providing limits to the number of plants which may be grown; and section 14 specifically addresses the noncommercial cultivation of marijuana by requiring that marijuana may not be grown openly or publicly, requiring that marijuana be grown in an enclosed and locked space and providing that marijuana grown for personal use may not be made available for sale.

e. Based on careful consideration of the Colorado Medical Marijuana Code, article XVIII, section 14 of the Colorado Constitution, article XVIII, section 16 of the Colorado Constitution, and the potential secondary effects of the cultivation of marijuana or marijuana-infused products, such land uses have an adverse effect on the health, safety and welfare of the city and its inhabitants.

(2) *Authority*. The city's authority to adopt this section is found in: article XVIII, section 14 of the Colorado Constitution, article XVIII, section 16 of the Colorado Constitution and the Colorado Medical Marijuana

Code, C.R.S. § 12-43.3-101, C.R.S.; the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101, C.R.S. § 31-15-401, (municipal zoning powers); C.R.S. §§ 31-15-103 and 31-15-401, (municipal police powers); C.R>S> 31-15-501, (municipal authority to regulate businesses); and the city Home Rule Charter.

(3) *Applicability*. This section shall apply to all property within the city. To the extent that the city is required to allow the cultivation of medical marijuana or marijuana for personal use under state law, the rules set forth herein shall apply. Nothing in this section shall be interpreted to permit marijuana dispensaries of any kind otherwise prohibited by this or any other chapter. If the Colorado Medical Marijuana Code, article XVIII, section 14 of the Colorado Constitution and/or the Colorado Recreational Marijuana Code, article XVIII, section 16 of the Colorado Constitution are declared unlawful in violation of federal law, nothing in this Development Code shall be deemed to permit the cultivation, possession or use of marijuana for medical or any other purpose.

(b) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Enclosed space means a permanent or semi-permanent area, surrounded on all sides, including the roof. The temporary opening of windows or doors does not convert the area into an unenclosed space.

Locked space means the area where cultivation occurs must be secured at all points of ingress and egress with a locking mechanism designed to limit access, such as a key or combination lock.

Marijuana shall have the same meaning as defined in section 24-1172.

Medical marijuana shall have the same meaning as defined in section 24-1170.

Open means not protected from unaided observations lawfully made from outside its perimeter not involving physical intrusion.

Public means an area which is open to general access without restriction.

(c) It is unlawful to grow medical marijuana or marijuana for personal or medicinal use anywhere in the city other than in a detached single-family residence and therein, within an enclosed, locked space which is not open or public within a detached single-family residential property under the ownership of the person cultivating the marijuana or with the written permission of the property owner. For the purposes of this section, a garage or detached structure associated with the residence shall not be used for the cultivation of marijuana.

(d) It is unlawful to cultivate marijuana or medical marijuana inside a residential dwelling in an area exceeding 32 square feet or exceeding a height of ten feet. This limit applies regardless of the number of qualified patients or caregivers or persons otherwise allowed to possess and grow marijuana for personal use residing in the residence. The cultivation area shall be a single, locked area and shall not be accessible to anyone under the age of 21 unless such person possesses a medical marijuana registration card.

(e) It is unlawful to use any lighting for the indoor cultivation of marijuana or medical marijuana other than light emitting diodes (LEDS), compact fluorescent lamps (CFLS) or fluorescent lighting. All high intensity discharge (HID) lighting, including, but not limited to, mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high pressure sodium (HPS) lamps and xenon short-arc lamps, are prohibited.

(f) It is unlawful to use gas products (e.g., CO_2, butane) for indoor marijuana or medical marijuana cultivation or processing.

(g) It is unlawful to cultivate marijuana or medical marijuana in any structure without complying with applicable building and fire codes, including plumbing, mechanical and electrical, and all applicable zoning codes, including by not limited to, lot coverage, setback and height requirements.

(h) Any indoor marijuana or medical marijuana cultivation area shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the property line for detached single-family residences or residential property, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence. This shall include, at a minimum, a system meeting the requirements of the current, adopted edition of the International Residential/Building Code.

(i) It is unlawful to store chemicals used for marijuana or medical marijuana cultivation inside of the habitable areas of the residence or within public view from neighboring properties and public rights-of-way.

(j) It is unlawful for any marijuana or medical marijuana cultivation activity to adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts; or be hazardous due to the use or storage of materials, processes, products or wastes or from other actions related to the cultivation.

(k) This section shall be liberally construed to prevent and prohibit the establishment, operation and continuation of any activity identified above, but shall not be construed to criminalize lawful activity under article XVIII, section 16 of the Colorado Constitution.

(l) Nothing in this section shall affect the limitations and prohibitions found in sections 24-1170 and 24-1172.

(m) Violations of this section ~~shall be considered a code infraction and~~ shall ~~punished as set forth in~~ be punishable pursuant to chapter 10 of title 1 of this Code.

(n) The establishment, operation and continuation of any activity in violation of the terms of this section is specifically determined to constitute a public nuisance, may be abated by the city as a nuisance and may be enjoined by the city in an action brought in a court of competent jurisdiction in the county in which such activity occurs. The remedies set forth in this section shall not be exclusive, shall be cumulative and shall be in addition to any other remedy available at law or in equity.

(Code 1994, § 18.46.139; Ord. No. 20, 2013, § 2, 7-16-2013)

Sec. 24-1175. Mixed uses.

The following provisions shall apply to a building or structure with two or more different uses, one of which shall be residential.

(1) In the commercial zoning districts, at least 50 percent of the ground floor of a mixed-use building shall be in a nonresidential land use. In the R-H Zoning District, no more than 50 percent of the total gross floor area of a structure containing a mixed-use, including basement area, shall be devoted to nonresidential uses.

(2) Nonresidential land uses permitted in the R-H Zone are personal service uses, offices, childcare centers and preschools, bed and breakfasts and art, dance and photo studios. Mixed uses in a commercial zone shall include any commercial use permitted within that zoning district.

(3) The design and character of all land uses in a mixed-use shall be compatible with the predominant character of the surrounding neighborhood. The operating characteristics of a nonresidential land use in a predominantly residential neighborhood shall be compatible with the residential uses. For the purposes of this section, operating characteristics shall include, but not be limited to, hours of operation, lighting, noise and traffic.

(Code 1994, § 18.46.140; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1176. Mobile homes and land lease communities.

(a) This section recognizes the public value of low-cost single-family housing and the ability of mobile homes to address a portion of that need. In addition, mobile homes have characteristics that are not necessarily associated with other land developments. The purpose of this section is to identify the location and development standards for mobile homes and land lease communities.

(b) Mobile home and land lease communities shall be located only in zoning districts in which they are specifically permitted under the zoning requirements or within mixed-use PUD zones. A mobile home community in a PUD district shall meet all PUD requirements and ensure that at least the equivalent standards of this Development Code are met. The PUD zone for mobile home communities shall be necessary to accommodate land uses not otherwise possible under traditional zoning in exchange for added improvements considered beneficial to the city. The site plan for each mobile home community shall be approved by the community development director

as provided for in the design review use procedures of article III of chapter 5 of this title, and all conditions and requirements herein shall be found to exist before approval can be given. Mobile homes may be located and occupied in the following designated areas in the city:

(1) Licensed mobile home communities. (Provided that the community is in a zone designated for mobile homes and that the mobile homes in such communities have their own bathing and toilet facilities connected to city water and sewer service). For spaces located within a mobile home park, the minimum permitted length of lot rental shall be 30 consecutive days.

(2) Construction sites. Used by a contractor or subcontractor as an office during the construction period in conjunction with work on the site for a maximum of two weeks before the project begins and two weeks after the completion of the project.

(3) Sales lot use as offices. On mobile home sales lots as an accessory use, provided that the mobile home is completely unoccupied as a residence and is in an area zoned for mobile home sales purposes. The exemption provided by this subsection shall not authorize the use of a mobile home as an office, but such use shall be lawful if a permit is issued to the mobile home owner pursuant to the following provisions:

a. The owner or operator of a mobile home sales lot shall be entitled to a permit authorizing the placement of one mobile home on the mobile home sales lot for use as an office if all of the following requirements are met:

1. The office use of the mobile home shall relate only to the mobile home sales business operated at that location;

2. The mobile home shall have at least two separated operational exits and two restrooms;

3. The mobile home shall be located within 250 feet of a city fire hydrant by street travel; and

4. The mobile home shall be placed upon the mobile home sales lot at least 20 feet from the closest structure on the sales lot or adjacent property.

b. The administrative official or designee shall evaluate each application for a permit. The official is authorized to design an application form requiring disclosures and representations pertaining to the facts and circumstances which must exist before a permit can be issued. Permits issued pursuant to the provisions for sales lot use of a mobile home as offices shall be for an indefinite period of time, but shall not be transferable to a subsequent owner or operator of the mobile home sales business. The right to use the mobile home as an office under the permit shall terminate immediately if any of the facts and circumstances listed in this section cease to exist; and it shall be unlawful for the owner or operator of the mobile home sales lot to make an office use of the mobile home, if any one or more of those facts and circumstances in this section ceases to exist.

(4) On-site guard facility. One mobile home per site may be utilized as an accessory on-site guard facility, for up to two guards performing security duties on the site within the industrial zone districts, as determined by this title. Such mobile homes shall not exceed 1,200 square feet in size and shall be used perpetually for guard purposes or shall be removed and may not be used for the purpose of establishing residency.

(5) Nonconforming mobile home communities.

(c) The following design standards shall apply to all mobile home communities and parks:

(1) No mobile homes or accessory structures shall overhang or obstruct any driveway, parking slab, street, patio or pathway.

(2) All mobile homes shall be skirted with materials which are the same or compatible with the material used as the principal exterior material of the mobile home.

(3) Each mobile home may have outdoor space, in the form of a patio, deck or porch, which may be constructed of noncombustible material such as concrete, or combustible material such as wood. Decks or porches constructed of a combustible material shall be considered as part of the mobile home and shall meet the separation requirements of this title. Patios, decks and porches shall be used for recreational

purposes only, shall not be used for storage or human habitation and shall remain at least 65 percent open and unobstructed on three sides.

(4) All mobile home parks with 25 or more dwellings shall have a permanent sign installed at or near each entrance to the complex to assist fire, police and service personnel in locating particular sites within the community. The sign shall conform with the city's sign code, be at least five feet by four feet and be well-maintained and shall depict a current map of the community in such a way as to identify dwellings by unit number or letter to be posted at each lot site. Each pad site shall be equipped with a permanent sign at least ten inches by five inches, prominently displayed and easily visible from the internal street frontage, showing the number or letter assigned to each such lot site.

(5) Each mobile home community shall have a minimum of two separate entrances that access a public street of sufficient capacity to accommodate the traffic generated by the mobile home community. The location of such entrances shall be approved by the public works department and fire authority.

(6) Paved driveways shall be provided where necessary for access to parking pads for each mobile home. Common access to parking areas serving adjacent home sites is encouraged. Driveways to individual home sites shall not be accessed from exterior streets or roadways. Individual parking spaces shall be nine feet by 19 feet in size. Driveways shall not be counted towards required parking, except with a single car garage or carport which may use the driveway space behind the garage or carport as the required second parking space, as long as parking of a vehicle on said driveway does not overhang onto any public sidewalk.

(7) Required parking areas shall not be utilized as long-term parking or as storage for automobiles, recreational vehicles, travel or utility trailers, boats or similar functions.

(8) No less than 25 percent of the gross area of the mobile home community shall be reserved for and devoted to common or community open space, including recreational areas and facilities, provided in a location or locations convenient to all mobile home residents. Of the required open space, 25 percent shall be in usable open space, as defined in section 24-1022(1).

(9) Recreational amenities, primarily for the use of the residents of the mobile home or land lease community, which may include swimming pools; clubhouses, community centers or buildings; playgrounds with play equipment; picnic shelters and barbeque areas; court game facilities such as tennis, volleyball or basketball; or trail systems, not otherwise required as a substitute for sidewalks; shall be provided based on the following schedule:

Recreational Amenities	
No. of Units	Number of Amenities Required
0--50	0
51--100	1
101--200	2
201--300	3
over 300	4

a. Playgrounds with commercial grade equipment, commercial grade picnic/barbeque areas or court games (tennis, volleyball or basketball) at least 1,000 square feet in size shall each count as one recreational amenity.

b. Individual balconies, decks or patio areas that are not intended to be designed to be enclosed, provided for all units, shall count as one-half recreational amenity.

c. A system of pedestrian trails shall count as one-half recreational amenity.

d. In-the-ground swimming pools at least 20 feet by 40 feet and community buildings at least 2,000

square feet in size shall count as two recreational amenities.

e. Active garden plots in common areas may be counted toward meeting usable open space or recreational amenity requirements as determined by the community development director, based on a review of the extent and location of garden plots, desirability for future residents and variety of amenities proposed.

(10) Mobile home or land lease communities proposed to be phased shall provide a phasing plan for the proportionate distribution of recreational amenities for each phase; however, in no event shall phasing be permitted in such a way that results in a reduced number of recreational amenities for an individual phase or for the entire community than is required under subsection (c)(9) of this section. Such facilities, as well as the park office and manager's dwelling, shall be the only buildings which may be constructed on permanent foundations.

(d) Storage and accessory buildings.

(1) Each mobile home unit shall have not less than 180 cubic feet of closed storage space located in a central building within the community or in an accessory structure at each home site. Central storage units within mobile home communities shall be screened from adjacent residential properties and public streets in accordance with the C buffer standards as provided in section 24-1143 and shall not be dependent on mobile homes for structural support unless integrated into a carport or garage.

(2) Storage of combustible materials shall be prohibited under mobile homes; provided, however, that tires mounted on wheels attached to hubs or axles used for transporting the mobile home shall be permitted to be stored under such mobile homes.

(3) Accessory buildings and structures for individual mobile home units shall be allowed if they comply with all applicable provisions of this Development Code and other ordinances of the city, including building permit requirements. Such structures shall include, but are not limited to:

a. Unenclosed carports;

b. Unenclosed porches;

c. Awnings;

d. Detached storage sheds less than 120 square feet in floor area;

e. Decks;

f. Garages, attached or detached; or

g. Steps.

(4) Accessory buildings or structures may be located in the building separation area as long as they are separated a minimum of six feet from any adjacent mobile home and are constructed of noncombustible materials. If constructed of combustible materials, accessory buildings or structures shall be separated a minimum of 15 feet from any adjacent mobile home. Secondary exit stairs no larger than three feet by three feet in size, constructed of combustible materials, may extend into the separation area as long as the adjacent structure has no greater encroachment into the separation area. Accessory buildings and structures shall not be located in easements or public rights-of-way; obstruct required openings for lighting, ventilating or exiting the mobile home; or prevent inspection of mobile home equipment and utility connections; nor shall they be used for human living quarters.

(e) Nonconforming mobile home communities.

(1) The number of mobile homes and mobile home spaces in an area permitted as a nonconforming mobile home community shall not be increased above the number licensed and existing as of the adoption of this title. In addition, if the area is not zoned for mobile home sites, the allowance of such area as a nonconforming mobile home community shall not be construed to change the zoning applicable to the area. Such allowance shall only authorize the continuation of such mobile home uses as are consistent with the provisions of this title.

(2) If the area is zoned for mobile home uses and if the owner desires to expand the development of the area for mobile home uses, the area proposed for expansion, as well as the entire park, shall conform with this title. Mobile home communities which are not properly zoned and which have not been continually licensed since their establishment shall be considered nonconforming uses and managed in accordance with chapter 19 of this title. Nonconforming mobile home communities shall continue to pay an annual license fee, as per Title 6 of this Code, for the purpose of conducting city inspections to ensure continued health and safety of the mobile home parks and communities, unless said parks and communities come into compliance in their entirety with the provisions of this title.

(3) In no event may an area be permitted as a nonconforming mobile home community unless the area meets the minimum requirements for nonconforming communities and was established in conformance with the regulations in place as of December 31, 1974.

(4) Lawfully nonconforming mobile home structures installed prior to the effective date of this Development Code shall be required to obtain a permit to locate within the flood fringe and shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors.

(Code 1994, § 18.46.150; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1177. Outdoor display, including auto sales.

The following provisions shall apply to all uses which include outdoor display as either a principal or accessory use:

(1) Display of vehicles shall be on asphalt or concrete and shall not impact landscaping or landscaped areas.

(2) No merchandise shall be placed for sale or display within any applicable setback, public right-of-way or landscaped area.

(3) Outdoor displays of merchandise that pose a safety hazard to the general public shall be prohibited.

(4) Outdoor displays of merchandise shall be located in areas that are accessible to and safe for customer pedestrian access.

(5) For the purposes of this section, items which are banded or shrink-wrapped and which are not easily accessible to customers shall not be considered display items.

(Code 1994, § 18.46.160; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1178. Outdoor storage.

The following provisions shall apply to all uses which include outdoor storage as a principal or accessory use:

(1) Items not customarily used or stored outside or made of a material that is resistant to damage or deterioration from exposure to the outside environment, shall not be placed, stored or maintained outside for a period in excess of 24 consecutive hours.

(2) Outdoor storage shall not be permitted within any applicable setback, public right-of-way or landscaped areas.

(3) Outdoor storage of all materials stored, or to be stored, in an unenclosed area shall be screened from the view of the adjacent public right-of-way and adjacent properties. Screening shall be accomplished through the use of a solid fence or wall of sufficient height to fully screen all stored materials, or through the use of landscaping (including plant materials and/or berms) which provides year-round screening of a sufficient height to fully screen all stored materials, or through a combination of fencing, walls and landscaping.

(4) Outdoor storage is not allowed as an accessory use in any zoning district where it is not allowed as a principal use or by special review. (See also section 24-628.)

(Code 1994, § 18.46.170; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 4, 2006, § 1, 1-17-2006)

Sec. 24-1179. Recreational vehicle/equipment, boat and personal vehicle storage.

The following provisions shall apply to all uses which include limited outdoor storage as a principal or accessory use:

(1) Recreational vehicle/equipment, boat and personal vehicle storage is allowed only for the storage of non-commercial recreational vehicles, boats and/or personal vehicles (cars and/trucks).

(2) Storage facilities must be screened from adjacent rights-of-way or adjacent properties in accordance with sections 24-1148 and 24-1149(d).

(3) Storage shall not be permitted within any applicable setback, public right-of-way or landscaped areas.

(4) All other applicable provisions of this title, including, but not limited to, off-street parking and loading, landscaping and buffering, and the general performance standards, shall also apply.

(5) Storage of inoperable, dismantled, salvage vehicles/equipment is not permitted.

(Code 1994, § 18.46.175; Ord. No. 30, 2015, § 1(exh. A), 8-18-2015)

Sec. 24-1180. Recycling centers.

The following provisions shall apply to recycling centers:

(1) Small recycling centers located within multifamily developments, commercial and industrial zoning districts shall comply with the following standards:

a. The facility shall be installed as an accessory use to an existing multifamily development, commercial or industrial land use;

b. The facility shall be no larger than 300 square feet and occupy no more than five parking spaces, excluding space that will be periodically needed for removal of materials or exchange of containers, and one parking space for an attendant, which shall be located outside setbacks;

c. The facility shall be set back at least ten feet from any public right-of-way and shall be located so that pedestrian or vehicular circulation is not obstructed;

d. The facility shall accept only glass, metals, plastic containers, papers and similar items;

e. The facility shall use no power-driven processing equipment except for reverse vending machines;

f. The facility shall use containers that are constructed and maintained with durable waterproof and rustproof material, covered when the site is not attended, and shall be of a capacity sufficient to accommodate materials collected and collection schedule;

g. All recyclable material shall be stored in the unit and shall not be left outside of the unit when unattended;

h. The facility shall be maintained in a clean and sanitary manner, free of litter and any other undesirable materials;

i. Facilities shall not be located within 100 feet (excluding right-of-way) of any residential zoning district;

j. Containers shall be clearly marked to identify the type of material which may be deposited. The facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling containers; and

k. The facility shall be placed on asphalt or concrete and shall not impact any landscaping or landscaped areas.

(2) A recycling collection facility which is larger than 300 square feet, or is on a separate parcel not accessory to a primary use, and which has a permanent structure, shall be permitted in the industrial zoning districts subject to the following provisions:

a. The facility shall not be adjacent to a parcel designated or planned for residential use;

b. Structure setbacks shall be those provided for the zoning district in which the facility is located;

c. All exterior storage of material shall be in sturdy containers which are covered, secured and maintained in good condition. Outdoor storage shall be screened by a six-foot solid fence or wall. No storage, excluding truck trailers, shall be visible above the height of the wall or fence. No outdoor storage shall be permitted in zoning districts which do not permit outdoor storage;

d. The site shall be maintained clean, sanitary and free of litter and any other undesirable materials and shall be cleaned regularly of loose debris. Containers shall be clearly marked to identify the type of material that may be deposited, and the facility shall display a notice stating that no material shall be left outside the recycling containers;

e. Space shall be provided on-site for a minimum of five vehicles to circulate and to deposit recyclable materials and for employee and commercial vehicle parking;

f. All containers provided for after-hours donation of recyclable materials shall be at least 100 feet from any residential use or zoning district and constructed of sturdy rustproof construction with sufficient capacity to accommodate materials collected, and shall be secure from unauthorized entry or removal of materials;

g. The facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation. Identification, informational and directional signs shall meet the sign standards of the zoning district;

h. Power-driven processing shall be permitted, provided that all noise level requirements are met. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials;

i. The site shall be secured from unauthorized entry and removal of materials when attendants are not present; and

j. Hazardous materials, dead animals or yard waste shall not be considered recyclable material, except as otherwise provided in this Development Code.

(Code 1994, § 18.46.180; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002)

Sec. 24-1181. Satellite earth station antennas.

(a) The following provisions shall apply to the installation of those devices and structures used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses, including, but not limited to, satellite earth stations, television reception only satellite dish antennas and satellite microwave antennas, except residential satellite dish installations which are three feet or less in diameter, residential single-pole or tower roof or ground-mounted television, or amateur radio antennas:

(1) The subject location shall conform to all standards of the zoning district and overlay district, as applicable, in which it is proposed, and shall not be located in any required setback or on any structure unless architecturally screened.

(2) The maximum overall height for a ground-mounted antenna shall be as established for building height in the applicable zoning district. The height of a roof-mounted antenna, combined with the building height, shall not exceed the maximum building height in the applicable zoning district.

(3) The operation of the antenna shall not cause interference with any electrical equipment in the surrounding neighborhood, such as television, radio, telephone or computers unless exempted by federal regulation.

(4) The antenna shall be a single, nonreflective color.

(5) The antenna shall be sited to assure compatibility with surrounding development and not adversely impact the neighborhood.

(6) The antenna shall be accessory to the principal use of the lot or site.

(b) This section shall not be construed to apply to any uses or structures that are otherwise regulated by chapter 20 of this title.

(Code 1994, § 18.46.190; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 32, 2018, exh. B(18.46.190), 8-7-2018)

Sec. 24-1182. Self-serve storage.

The following provisions shall apply to all self-serve storage uses:

(1) There shall be no storage of hazardous wastes or materials in storage units.

(2) Habitation in a storage unit or operation of any use other than for storage purposes shall not be permitted.

(3) Materials and colors of the storage units shall be compatible with the materials and colors of surrounding buildings.

(4) All other applicable provisions of this title, including off-street parking and loading, landscaping and buffering, and the general performance standards, shall also apply.

(Code 1994, § 18.46.200; Ord. No. 65, 2002, § 1, 12-17-2002)

Secs. 24-1183--24-1212. Reserved.

CHAPTER 13. AREAS OF ECOLOGICAL SIGNIFICANCE

Sec. 24-1213. Purpose and intent.

The purpose of this chapter is to establish standards which will ensure that when property is developed within the city, measures shall be taken to protect and enhance areas of ecological significance, critical wildlife habitat and populations, native and unique plant communities and valuable natural features that benefit the entire city.

(Code 1994, § 18.48.010; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1214. Application.

(a) The provisions contained within this chapter shall apply to any development proposal for permitted uses, design review uses, special review uses, subdivisions and planned unit developments which are located within or adjacent to those areas identified on the city's areas of ecological significance map adopted with this Development Code.

(b) Those impact areas shown on the city's areas of ecological significance map have been designated on the basis of mapping and research done by the state division of wildlife and the city. Areas which are not mapped but which upon further investigation are determined to possess similar characteristics as those areas delineated on the areas of ecological significance map may be considered for inclusion in the next annual update of the map. Areas which have been included on the areas of ecological significance map and which upon further investigation do not possess similar characteristics as areas delineated on the areas of ecological significance map may be exempted from meeting the provisions herein upon written approval by the community development director.

(c) The areas of ecological significance map shall be adopted by the city and updated on an annual basis.

(Code 1994, § 18.48.020; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1215. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Community means one or more populations of plants and animals in a common grouped arrangement within a specified area.

Corridor or *movement corridor* shall mean a belt, band or stringer of vegetation or topography that provides a completely or partially suitable habitat and which animals follow during daily, periodic or seasonal movements.

Development shall mean any construction or activity which changes the basic characteristics or use of land on which construction or activity occurs, including, but not limited to, any non-natural change to improved or unimproved real estate, substantial improvements to buildings or other structures, mining, dredging, filling, grading, paving, extraction or drilling operations.

Ecological character shall mean the natural features and attributes of an area or landscape that, combined, give the area its character.

Enhancement shall mean the improvement of the land or water of the impacted or replacement area beyond that which would occur without the development.

Habitat shall mean areas that contain adequate food, water and cover to enable one or more species of wildlife to live in or use the area for part or all of the year and which typically consists of natural or planted vegetation along with one or more sources of water available in the area or adjacent areas.

Habitat, aquatic, shall mean areas which are typically adjacent to sub-irrigated areas or standing or flowing water and which can be identified by the presence of water at or near the ground surface, including streams, rivers, creeks, lakes, ponds, reservoirs, wetlands, marshes, springs, seep areas, bogs and riparian areas.

Habitat, terrestrial, shall mean trees, shrubs, grasses, forbs and legumes which provide food and/or cover for one or more species of wildlife.

High impact areas shall mean those designated areas which contain significant natural features which would be severely and negatively compromised by development. Such areas are identified on the areas of ecological significance map.

Hydric soils shall mean soils which are saturated or nearly so during all or part of the year.

Hydrophilic plant populations shall mean vegetation that requires standing or flowing water or saturated or nearly saturated soils in order to grow.

Loss shall mean a change in wildlife resources due to development activities that is considered adverse and which would:

(1) Reduce the biological value of habitat;

(2) Reduce the numbers of species;

(3) Reduce population numbers of species;

(4) Increase population numbers of nuisance/generalist species;

(5) Reduce the human use of wildlife resources; or

(6) Disrupt ecosystem structure and function.

Mitigation shall mean a mechanism for addressing undesirable impacts on fish, wildlife, plants, habitat and other natural resources. Mitigation may be accomplished in several ways including reducing, minimizing, rectifying, compensating or avoiding impacts. Mitigation may include avoiding the impact altogether by not taking a certain action or parts of an action; minimizing impacts by limiting the degree or magnitude of the action and its implementation; rectifying the impact by repairing, rehabilitating or restoring the affected environment; reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; or compensating for the impact by replacing or providing substitute resources or environments.

Moderate impact areas shall mean those designated areas which contain significant natural features which would be moderately and negatively compromised by development. Such areas are identified on the areas of ecological significance map.

Natural area shall mean aquatic or terrestrial habitats or areas which exist in their natural condition and which have not been significantly altered by human activity.

Natural area corridor shall mean an aquatic or terrestrial corridor that connects one or more impact areas or habitats together.

Natural feature shall mean those features which give an area its general appearance and ecological character and which attract or support the wildlife species that use or inhabit the area.

Practicable shall mean capable of being done within existing constraints, including environmental, economic, technological or other pertinent considerations.

Riparian zone shall mean an area where the presence of surface and/or high subsurface water levels permits

the existence of increased vegetative diversity and abundance as contrasted to surrounding areas.

Significant (biologically) shall mean wildlife or habitats that because of their relative attributes deserve greater consideration in resource management decisions. Relative attributes may include:

(1) Species that have state and/or federal listing as endangered/threatened, or have standing as species of special concern;

(2) Species with restricted distributions or highly specific habitat requirements;

(3) Species that are representative of a particular habitat type;

(4) Indicator species whose physical presence denotes the presence of other species or environmental conditions not readily observed; or

(5) Species with economic value or possessing traits that are of particular interest to humans.

Significant habitat shall mean an area which is necessary for maintaining viable local populations of organisms.

Species, endangered, shall mean those species of wildlife and plants which have been identified and listed by the U.S. Fish and Wildlife Service and/or the state department of wildlife as endangered.

Species, indicator, shall mean those species of wildlife and plants which can be used to gauge or measure the quantity and/or quality of a particular type of habitat.

Species of special concern shall mean those species of wildlife and plants which the state division of wildlife has identified and listed as state species of special concern.

Species, sensitive, shall mean those species of wildlife and plants which have specialized habitat needs or species that require habitat that is available only in limited quantity, or those species that are sensitive to noise or other types of disturbances which are usually caused by humans.

Species, threatened, shall mean those species of wildlife and plants which have been identified and listed by the U.S. Fish and Wildlife Service and/or the state department of wildlife as threatened.

Stringer shall mean a strip of vegetation that extends into another type of vegetation creating an edge effect and providing a movement corridor for a variety of wildlife species.

Wetlands shall mean lands that are transitional between aquatic and terrestrial habitat where the water table is at or near the surface, or the land is covered by water during a portion of the year. Wetlands are characterized by: hydric soils, with undrained substrate; hydrophilic plant populations; standing water or deposits of leached compounds in surface soils; or high subsurface water table.

Wildlife shall mean wild, native vertebrates (including fish), mollusks, and crustaceans and any species introduced or released by the state division of wildlife, whether alive or dead, including any part, egg or offspring thereof.

(Code 1994, § 18.48.030; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1216. General provisions.

(a) To the maximum extent practicable, all development plans shall be designed and arranged to ensure that little or no disturbance shall occur to any high or moderate impact area identified on the areas of ecological significance map as a result of the development.

(b) If any development generates a disturbance or influence to an impact area or to a natural feature located in an impact area, the development shall restore or replace the natural resource either on the site or off the site in the vicinity as approved by the city after notice has been provided to the adjacent property owners. Any such restoration or replacement shall be equivalent to replace the natural resource which was lost.

(c) To the extent practicable, mitigation measures shall be targeted to the specific natural features, wildlife species and/or wildlife habitat impact brought about by a particular development. Such measures may be mixed and matched to address a diversity of potential impacts encompassed within a single application.

(d) Where more than one species inhabits a site, priority shall be given to that species which is at the highest

risk. Development plans shall include provisions to ensure that any habitat that is key or critical to the survival of threatened or endangered species shall not be disturbed or diminished and, to the maximum extent practicable, shall be enhanced.

(Code 1994, § 18.48.040; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1217. High and moderate impact areas.

(a) Impact areas as determined on the areas of ecological significance map shall be used to designate specific areas of the site in which limited development may occur upon compliance with the regulations of this chapter. Impact areas may be multiple and noncontiguous on a development plan.

(1) The boundaries of high and moderate impact areas as mapped are approximate. The true boundary of such areas shown on development plans shall be proposed by the applicant, subject to approval by the city through site evaluation, and shall be based on the ecological characterization of the site in conjunction with the areas of ecological significance map.

(2) In establishing boundaries for wetlands found on a development site, the applicant and the city may use hydrological evidence, ecological characterization and/or soil analysis. Such information may be existing or the community development director may request that the applicant provide additional information determined by the director to be necessary for a thorough and comprehensive review.

a. Standards and guidelines and/or professional recommendations of the state division of wildlife or other agencies or persons with technical expertise in wetland delineation may be used to determine wetland boundaries.

b. In no event shall the defined wetland boundary be less inclusive than that which would be determined by the standards used by the U.S. Army Corps of Engineers.

(3) The following shall be considered in identifying or amending the high and moderate impact areas, including, but not limited to:

a. Ecological character and wildlife use of the impact area, stream corridor and wetland protection and buffering, wildlife movement corridors and type and quality of existing plant communities, preservation of significant tree and shrub stands and native grasslands;

b. Foreseeable impacts of development on wildlife usage, ecological character or function of the impact area;

c. Visual impacts, including ridge line and hillside protection areas;

d. Existence of special habitat features such as key raptor habitat (including hunting roosts, night roosts and nest sites); key production areas, concentration areas and feeding areas for waterfowl; key use areas for shorebirds and water birds; key nesting sites for migrant songbirds and ground-nesting songbirds; deer concentration areas; black-tailed prairie dog colonies over 50 acres in size; grasslands; plains cottonwood-willow riparian habitat; and any wetland;

e. Floodplains and floodways;

f. Erosion prevention and control, including, but not limited to, protection of natural drainageways and compliance with approved stormwater drainage management plans;

g. Water conservation, including, but not limited to, preservation of existing native vegetation, reduction in amounts of irrigated suburban development and other considerations;

h. Practical needs of approved construction activity in terms of ingress, egress, necessary staging and operation sites and the extent of proposed construction impact, including utility line construction and installation;

i. Character of the completed development in terms of use, density, traffic flow, quantity and quality of water runoff, noise, light and other impacts; and

j. Site topography including slope, drainage features, terraces, bluffs and hillsides, or ridge lines.

(b) Biologist's report required. If a development site contains or is adjacent to an impact area as mapped,

then a report prepared by a qualified biologist or ecologist shall be provided unless waived by the city if adequate information is available for the site. The report shall cover the following:

(1) Areas inhabited by or frequently used by state or federally listed endangered or threatened species and species of special concern;

(2) Use of the area by significant wildlife including a species list, season of use and the purpose of use that the area provides for wildlife;

(3) Location of predominant species and characteristics of significant stands of vegetation;

(4) High water mark of any permanent water body or lake, or bank and 100-year flood zone of any stream or river, if applicable;

(5) Wildlife movement corridors or special habitat features;

(6) Ecological functions of the site in relation to surrounding areas;

(7) Structures or uses that would discourage wildlife use of the area;

(8) Recommendations concerning desirable and undesirable development features, site improvements and uses; and

(9) The biologist shall develop recommendations to mitigate the negative impacts of development proposals. Such recommendations shall consider the intentions of the applicant for the development of the property in determining which of the following mitigation measures may apply:

a. All measures shall first be considered that avoid potential influences to impact areas if deemed feasible and practicable by the community development director in consultation with the administrative review team. If not deemed feasible and practicable, then;

b. All measures shall be considered that minimize potential influences to impact areas if deemed feasible and practicable by the community development director in consultation with the administrative review team. If not deemed feasible and practicable, then;

c. Measures shall be taken to rectify negative influences to impact areas by repairing, rehabilitating or restoring the affected environment if deemed feasible and practicable by the community development director in consultation with the administrative review team. If not deemed feasible and practicable, then;

d. Measures shall be taken to reduce or eliminate the negative influences to impact areas over time by preservation and maintenance operations during the life of the project if deemed feasible and practicable by the community development director in consultation with the administrative review team. If not deemed feasible and practicable, then;

e. Measures shall be taken to mitigate the influences to impact areas by replacing or providing substitute resources and/or environments.

(c) Biologist qualifications and cost estimate. The report in subsection (b) of this section shall be provided by a qualified biologist or ecologist under contract to the city, the cost of which shall be borne by the applicant. Upon request, the city shall provide an estimate for the cost of the report. Preparation of the biologist's report may be waived if the applicant has a report acceptable to the city to submit as a substitute.

(Code 1994, § 18.48.050; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1218. Development standards.

(a) Development shall be prohibited in high and moderate impact areas unless approved by the city under the provisions herein.

(1) No disturbance due to approved development activity such as grading or alteration of vegetation shall occur within any impact area except as provided in section 24-1217. Disturbance shall include draining, filling, dredging or clearing activities, or stockpiling materials that leads to alteration of habitat within the impact area.

(2) No construction activity, including grading, excavation or stockpiling of materials, shall be permitted within the impact area prior to approval by the city of a stormwater drainage and erosion control plan.

(3) If site development causes any disturbance within an impact area, the applicant shall propose appropriate mitigation measures for approval by the city, whose approval shall not be unreasonably withheld. Such mitigation or restoration measures shall be included in the biologist's report, as required by section 24-1217(b). Any mitigation or restoration effort shall be equivalent to, or exceed the loss suffered by the community as a result of, the disturbance. Restoration or mitigation plans shall emphasize the use of native plant species.

(4) In addition to those projects which require a building permit, construction may be permitted within the impact areas subject to approval by the community development director for:

a. Mitigation of damage due to development;

b. Restoration of disturbed, degraded or damaged areas;

c. Utility work when such activities cannot reasonably be located outside the impact areas or on surrounding lands;

d. Public safety purposes; or

e. Habitat enhancement projects.

(b) Protection of wildlife habitat and ecological integrity.

(1) To the extent practicable, construction shall be timed to minimize disturbance of endangered or threatened species or species of special concern occupying or using the site and adjacent lands.

(2) Black-tailed prairie dogs inhabiting portions of the site shall be relocated or humanely euthanized by the developer or developer's agent using legally approved methods for relocation and euthanasia which do not displace prairie dogs onto other properties prior to the onset of construction activity. Destruction of prairie dog towns shall not occur during the nesting season (May 15 through September 15) of the burrowing owl unless the town has been surveyed by a professional biologist/ecologist familiar with burrowing owl behavior and it is found that burrowing owls are not engaged in nesting/brood-rearing activities. If burrowing owls are found actively nesting or brood-rearing on a construction site, a plan shall be developed by the applicant and approved by the city and/or the state division of wildlife for protecting the owls from disturbance by construction activity. This plan shall be implemented before development activity may begin.

(3) If the development site contains existing areas that connect or provide corridors to adjacent impact areas, the development plan shall preserve those connections intact. Developments adjacent to streams, rivers and other designated natural drainage ways shall incorporate movement corridors for wildlife as part of the development plan. Movement corridors in such areas shall not be obstructed by fencing that prevents the free movement of deer and other wildlife along the corridor.

(4) If the development site contains a lake, reservoir or pond, the development plan shall include enhancements and restoration necessary to protect and provide reasonable wildlife habitat, improve the aesthetic quality and protect areas subject to wind and wave action.

(5) Water features incorporated as an aesthetic enhancement for developments shall be designed and constructed in a manner that will minimize their attractiveness for Canada geese. The city may not approve water features with large expanses of blue grass immediately surrounding the water impoundment area. Tree and shrub thickets may be used to discourage use by Canada geese in such areas.

(c) Protection during construction.

(1) Designation of impact areas as approved by the city shall be shown on the final site plan. Impact areas shall be designated and marked in the field by methods approved by the city, prior to the onset of construction activity.

(2) Temporary construction barrier fencing shall be installed and maintained at the impact area before and

during construction. The marking of trees, shrubs and thickets to be preserved within impact areas that will be disturbed during construction shall be done in a way that will not permanently scar or deface the plant.

(d) Proof of compliance.

(1) When a proposed development will disturb existing wetlands, the applicant shall provide to the city a written statement from the U.S. Army Corps of Engineers that the development plan fully complies with all applicable federal wetland regulations established in the Clean Water Act.

(2) The applicant shall provide a certification to the city that the development plan complies with all applicable federal, state or county environmental regulations.

(Code 1994, § 18.48.060; Ord. No. 27, 1998, § 1, 5-19-1998)

Secs. 24-1219--24-1239. Reserved.

CHAPTER 14. HILLSIDE DEVELOPMENT STANDARDS

Sec. 24-1240. Purpose and intent.

This chapter is intended to specify the conditions under which development may take place in hillside areas which may contain sensitive natural features, including ridge lines, bluffs, rock outcroppings, natural drainage ways and geologic conditions so that development in these areas preserves and protects the unique natural features and aesthetic qualities and ensures that development minimizes the removal of existing vegetation and natural features and avoids geologic conditions which may pose a threat to life and property.

(Code 1994, § 18.50.010; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1241. Application.

The provisions herein shall apply to all development within the city in areas which contain existing, natural slopes in excess of 15 percent.

(Code 1994, § 18.50.020; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1242. General provisions.

(a) Minimum lot sizes for hillside areas shall be determined as follows:

Minimum Lot Size--All Land Uses	
Existing Natural Slope of Site	Minimum Lot Size
0--15 percent	Established by zoning district
15.01 percent--25 percent	2 times zoning district requirement; 2 times GFA for institutional, commercial and industrial uses
Over 25 percent	Established by planning commission approval

(b) Developments which contain existing natural slopes in excess of 25 percent shall require approval of a variance by the planning commission.

(c) Minimum lot size for institutional, commercial and industrial land uses shall be as provided in subsection (a) of this section.

(d) Existing natural slopes shall be identified on site and/or landscape plans as provided for in chapter 11 of this title.

(Code 1994, § 18.50.030; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1243. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adjacent uphill lot means an adjacent lot, whether or not separated by streets, easements or the like, which has an average ground level higher than the average ground level of the subject lot.

Apex shall mean the uppermost or highest point.

Hillside development shall mean development in areas which contain existing, natural slopes in excess of 15 percent.

Midpoint shall mean that point equidistant from the foundation at ground level to the apex of the roof, excluding roof structures, stairways, parapet walls, towers, flagpoles, chimneys or similar structures.

Slope shall mean the ratio between elevation change to horizontal distance expressed as a percentage.

(Code 1994, § 18.50.040; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1244. Design standards.

(a) *Site grading*.

(1) Grading shall be limited to that which is necessary to construct buildings, drives and usable open space. Where necessary, grading shall be designed to conserve natural topographic features and appearances by sculpting the land to blend graded slopes and benches with natural topography and retain major natural topographic features, including natural drainage courses and existing vegetation.

(2) Cuts and fills shall be limited to the extent necessary; and in no event shall cuts and fills occur in areas with slopes in excess of 25 percent, nor disturb more than 75 percent of the area of a lot or site without approval of a variance by the planning commission.

(3) All graded areas shall be protected from wind and water erosion through the use of acceptable slope stabilization methods such as planting, retaining walls, netting or a combination thereof.

(4) Construction equipment and stockpiled soils shall be stored in areas which are to be disturbed during construction, including driveway pad locations and previously disturbed street cuts.

(b) *Building siting.*

(1) Buildings shall be sited so that existing landforms serve as backdrops to the buildings rather than using the sky as a backdrop, and shall be designed to fit the site rather than modifying the site to fit the proposed buildings.

(2) Retaining walls shall be permitted as long as they are not in excess of six feet above final grade. Multiple parallel retaining walls shall be designed to be part of a tiered or terraced retaining wall system.

(3) If a site has unique geological features, such as rock outcroppings or cliff faces, special care shall be taken to design the buildings for the site so that such site features are preserved.

[GRAPHIC - Figure 24-35. Building Designed to Fit Site]

(c) *Building height standards*.

(1) The maximum height of a proposed building or structure shall not exceed the mid-point of the tallest building or structure on the adjacent uphill lot. If more than one lot meets the definition of adjacent uphill lot, the measurements required shall be made against the lower lot.

(2) The maximum height of a proposed structure on a lot which has no adjacent uphill lot shall be as established in the zoning district in which the lot is located.

(3) Nothing in this chapter shall be construed to allow the height of a structure to exceed that allowed in the underlying zoning district, or to prohibit a single-story structure.

(d) *Architecture*. Buildings and structures shall be designed to be compatible with the natural surroundings of the area and shall not dominate the natural environment using the following techniques:

(1) Exterior finishes shall blend in with the natural surroundings by using earth-tone colors and avoiding reflective materials or finishes.

[GRAPHIC - Figure 24-36. Roof Pitch Reflects Hillside Slope]

(2) Varying setbacks, roof lines, innovative building techniques and building and wall forms which blend buildings into the terrain shall be used.

(3) Building design shall enhance the site's natural features through the use of split level designs and stepped foundations which mirror the slope of a hillside.

(4) Roof lines shall be broken into smaller components to reflect the irregular natural hillside patterns and shall be oriented in the same direction of the slope contour.

(e) *Landscaping*.

(1) Buildings shall be sited to incorporate existing vegetation into the site design to preserve the natural hillside image and character of the area.

(2) Existing vegetation shall be retained wherever possible and shall be used to soften structural mass and help blend buildings into the natural setting. Where vegetation is removed for other than fire safety reasons, replacement of the same or compatible plant material elsewhere on the site shall be required in an equal amount based on the number of plants removed.

[GRAPHIC - Figure 24-37. Landscaping to Screen and Enhance Hillside, Minimize Erosion]

(3) All exposed slopes and graded areas shall be landscaped with ground cover, shrubs and trees, and cuts and fills shall be designed to limit the impact upon existing vegetation on the site.

(f) Street and driveway standards.

(1) Streets shall be designed to follow existing contours, minimizing grading and erosion potential while providing adequate access for vehicles, including emergency service vehicles.

(2) The maximum street grade shall not exceed five percent unless otherwise approved as a variance for a subdivision by the planning commission as provided for in chapter 4 of this title, or as a planned unit development.

(3) Guest parking shall be provided at the ratio provided in section 24-1099 either on-street as parallel parking spaces or in off-street locations which are distributed throughout the area for which the spaces are intended to be used.

(Code 1994, § 18.50.050; Ord. No. 27, 1998, § 1, 5-19-1998)

Secs. 24-1245--24-1261. Reserved.

CHAPTER 15. ACCESSORY USES AND STRUCTURES

~~**Editor's note**— Ord. No. 1, 2017, § 1(exh. A), adopted Jan. 17, 2017, amended Ch. 18.52, §§ 18.52.010—18.52.040 in its entirety to read as herein set out. The former Ch. 18.52 pertained to accessory and temporary uses, structures and buildings and derived from Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 65, 2002, § 1, 12-17-2002; Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 25, 2010, § 1, 7-20-2010. See Ch. 18.53 for provisions pertaining to temporary uses and structures.~~

Sec. 24-1262. Purpose and intent.

The purpose of this chapter is to set forth regulations governing accessory uses and structures.

(Code 1994, § 18.52.010; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Sec. 24-1263. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory structure means a detached building or structure located upon the same lot as the principal building

or structure to which it is related, which is incidental to and customarily found in connection with such principal building or structure and which is not to be used for human habitation.

Accessory use means a use customarily incidental, related and subordinate to the main use of the lot.

Electric fence means any fence using, carrying or transmitting an electrical current for any purpose, except electric or radio transmission dog or cat fence not meant to detain any person or animal except the dog or cat wearing the transmission collar.

Fence means any artificially constructed barrier of an approved material or combination of materials erected vertically to enclose or screen areas of land.

Home occupation means an occupation, profession, activity or use conducted within a residential dwelling unit that is incidental and secondary to the use of a residential dwelling unit, which does not alter the exterior of the property or affect the residential character of the residential environment and which meets the provisions of section 24-1266.

Home occupation, rural, means an accessory use to a farming operation or a nonfarm household located in a rural area, designed for gainful employment involving the sale of agricultural produce grown on the site, conducted either from within the dwelling and/or from accessory buildings located within 500 feet of the dwelling occupied by those conducting the rural home occupation.

Livestock means animals typically related to agricultural or farming uses, including, but not limited to, chickens, swine, sheep, goats, horses, cattle, yaks, alpacas and emus.

Open fence means a fence that is at least 75 percent transparent. See also *Solid fence*.

Sidewalk means a paved, surfaced or leveled area, paralleling and usually separated from the street, used as a pedestrian path.

Solid fence means a fence that is at least 75 percent opaque. See also *Open fence*.

(Code 1994, § 18.52.020; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Sec. 24-1264. Accessory uses and structures.

(a) The following provisions shall apply to accessory uses, structures and buildings:

(1) The accessory uses or structures shall be subordinate to and customarily found with the principal use of the land or site.

(2) Accessory uses or structures shall be located on the same lot as the principal use.

(3) Accessory structures shall not exceed the height of the principal building or structure and 60 percent of the footprint of the principal building on the site, including attached garage area, except in the H-A Zone, which shall not have a limit on the size of accessory structures and buildings used for agricultural purposes.

(4) In residential zones, the 60 percent limit may be exceeded for one detached garage if all of the following criteria are met:

a. The detached garage is used to accommodate parking for residential uses on-site.

b. The detached garage shall be no larger than 660 square feet in size.

c. The site cannot exceed 150 percent of the required amount of parking spaces.

(b) The total square footage of all accessory buildings and structures in residential zones shall not exceed the footprint of the principal building, including attached garage area. In commercial and industrial zones, there shall be no limit on the size or number of accessory buildings and structures, but such accessory buildings and structures shall be required to meet all applicable design review standards if in an infill location.

(c) Accessory uses or structures shall be operated and maintained for the benefit or convenience of the occupants, employees and customers of or visitors to the premises which contains the principal use.

(d) Accessory structure shall not be used for living or sleeping quarters except for industrial uses which may

provide accessory living or sleeping quarters for the housing of security or maintenance personnel in close proximity to the industrial use and which shall not exceed 1,200 square feet in size. In no event shall such accessory living or sleeping quarters become an independent living unit, nor shall the accessory building or structure be subdivided from the remainder of the site.

(e) Accessory structures shall comply with the front, rear and side yard setbacks set forth in article VI of chapter 8 of this title. Portable accessory buildings less than 120 square feet in size which do not require a building permit shall be permitted to locate in rear and interior side yard setbacks. When accessory buildings and structures have alley access, the setback from the alley shall be a minimum of five feet when access to the accessory building or structure occurs parallel to the alley. Otherwise, the minimum setbacks for accessory buildings or structures that have direct access from the alley shall be a minimum of ten feet.

(f) Accessory structures which require building permits shall be constructed of similar materials and in a similar design as the principal building or structure.

(Code 1994, § 18.52.030; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Sec. 24-1265. Fences and walls.

(a) *General provisions.*

(1) Fences and walls shall be considered accessory structures in all zoning districts.

(2) A building permit is not required for fences up to six feet tall; all fences must meet zoning code requirements. Fences or walls located within a floodway will require a floodplain development permit.

(3) Fences along collector or arterial streets. Such features shall be made visually interesting and shall avoid creating a tunnel effect. Compliance with this standard may be accomplished by integrating architectural elements such as brick or stone columns, incorporating articulation or openings into the design, varying the alignment or setback of the fence, softening the appearance of fence lines with plantings, or similar techniques. In addition to the foregoing, and to the extent reasonably feasible, fences and sections of fences that exceed 100 feet in length shall vary the alignment or setback of at least one-third of the length of the fence or fence section (as applicable) by a minimum of three feet.

(4) All fences shall have the finished (smooth) side facing the public right-of-way, common open space, or other public areas, as applicable.

(5) All fencing and walls shall be maintained in good condition, including, but not limited to, replacing or repairing broken components, such as pickets, and repainting.

(b) *Fence and wall placement.*

(1) Fences and walls shall be located on-lot or on the property line between lots and constructed of durable materials which are visually pleasing and provide the necessary screening and/or enclosure.

(2) Fences and walls shall be located no closer than two feet to a public sidewalk on the front and street side;

(3) Fences and walls shall be located no closer than three feet to a lot line along an alley where an alley-accessed garage door is set back at least 20 feet from the lot line.

(4) In no event shall a fence or wall be located in or extend partly into any public right-of-way or easement without first obtaining a revocable right-of-way permit from the public works department.

(c) *Fence and wall height.*

(1) For the purposes of this section, the height of a fence or wall shall be the distance from the top of the fence or wall to the finished grade of the lot directly under the fence or wall as such grade existed at the time the fence or wall was constructed. Any berm, wall or similar feature that is constructed for the purpose of increasing the height of a fence or wall shall be considered to be a part of the fence or wall.

(2) Fences and walls which are located in required front setbacks for residential uses shall not exceed 42 inches in height, as measured at grade where the fence will be located.

(3) Fencing for residential, commercial, industrial and institutional uses may exceed 42 inches in height in the front yard or in a required street setback only if the fencing is constructed of decorative wrought iron

or similar-appearing material and is at least 75 percent visually open; and in no event shall such fencing exceed six feet in height or impair sight distance. Fences which are a required element of buffer yards and screen walls in industrial, commercial and institutional districts or uses shall be exempt from this requirement, except for sight distance requirements.

(4) If a lot or site is a corner lot, fences, walls and hedges located within the clear vision zone of said lot shall be limited to a height of 36 inches. A fence, wall or hedge which exceeds these height limitations when measured on one side thereof, but not when measured on both sides, shall not be in violation of these provisions.

(5) In the I-M and I-H Zoning Districts, chain-link fences may exceed the six-foot height limitation, provided that the chain-link fence is designed as an open fence.

(d) *Fence and wall materials*.

(1) Approved materials for fence construction include, but are not limited to, commercial quality wood, brick, masonry, metal, stone, wrought iron, manufactured vinyl, decorative concrete, PVC fence material or any other material approved by the director.

(2) All material used in wood fences shall be either naturally rot resistant (such as cedar), or pressure treated for rot resistance.

(3) Chain-link fencing is not permitted in the required front setbacks for residential or commercial uses.

(4) Chain-link with slats are allowed in the I-M and I-H zone districts only, provided such fences are not located along collector and arterial roadways.

(5) No more than three strands of barbed wire may be added to the height of chain-link fencing in the I-M, I-H, C-D and H-A Zoning Districts subject to the following:

a. The lowest strand of barbed wire is maintained at least 6 1/2 feet above the adjoining ground level outside the fence; and

b. Exterior area security lighting, controlled by an automatic light level switch, is installed and maintained in good operating condition.

(6) Prohibited fence materials shall include, but are not limited to, aluminum siding, vehicle parts, smooth face concrete masonry units/blocks, cloth or plastic tarps, fencing slats (expect in the I-M and I-H zoned districts), scrap wood or any other material not customarily sold for fencing.

(7) Plastic or temporary construction fence may not be used as a permanent fence material.

(8) Approved materials for wall construction include, but are not limited to commercial quality brick, decorative masonry units, or decorative concrete or any other material approved by the director.

(9) Prohibited wall materials shall include, but are not limited to, landscape timbers, smooth face concrete masonry units/blocks, and other materials not customarily sold for retaining walls.

(10) Retaining walls.

a. Retaining walls shall be constructed of a high-quality material such as stone, masonry block with an integral color and exterior texture, or concrete with stone, brick or stucco facing, taking into account the character and materials of the related building and landscape plan. Where retaining walls are adjacent to a public right-of-way or residential area, such walls shall have a decorative exterior finish. Non-pressure treated wood and wood materials, vinyl or other plastic materials shall not be permitted for the construction of retaining walls.

b. Where retaining walls are proposed in setbacks, such walls shall be treated as fencing for determining permitted height and shall require a minimum setback of one foot for every additional one foot of retaining wall height above the maximum allowed six-foot height. Areas between retaining wall tiers shall be a minimum of two feet in width between each tier and shall contain live plantings when feasible.

c. Any retaining wall proposed to exceed a height of six feet shall require approval of a variance under

the provisions of chapter 6 of this title. This subsection shall not apply where retaining walls are not visible from an adjacent public right-of-way or residential area.

(Code 1994, § 18.52.035; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Sec. 24-1266. Home occupations.

(a) Home occupations shall be permitted as an accessory use to any dwellings in accordance with the provisions of this chapter.

(b) The conduct of a home occupation requires the approval of the community development director or planning commission as provided in subsection (f) of this section, who may establish conditions to further the intent of this chapter. An application for a home occupation permit shall be on a form prescribed by the director and shall be filed with the community development department.

(c) Home occupations shall not be transferable to alternate locations or persons.

(d) Home occupation requirements.

(1) A home occupation shall be permitted as an accessory use to a dwelling, provided that all of the following conditions are continuously met:

a. The exterior appearance of the dwelling and lot shall not be altered, nor shall the occupation within the dwelling be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting or signage, or by the emission of sounds, noises, dust, odors, fumes, smoke or vibrations detectable outside the dwelling.

b. All persons involved in carrying on the home occupation on the premises shall be legal and regular inhabitants of the dwelling unit. No other employees associated with the home occupation may be at the site for the purpose of conducting any part of the business operation.

c. The dwelling unit shall continue to be used primarily for residential purposes, and the occupational activities shall be harmonious with the residential use.

d. There shall be no sale and/or display of merchandise which requires customers to go to the property, except as provided in subsection (d)(2) of this section.

e. Vehicular traffic associated with the home occupation shall not adversely affect traffic flow and parking in the area. No more than one customer or client vehicle associated with the home occupation shall be at the home at a time, and no more than ten customer/client visits to the home per week and no more than two trips per week shall be related to the delivery of products and/or materials, with the exception of childcare homes.

f. No more than 20 percent of the living space shall be used for the home occupation and any related storage of materials and supplies, except where the home occupation is a board and care home or a childcare home, and shall meet state requirements, where applicable. In no event shall the garage be counted toward the total living space area, except as provided in subsection (d)g of this section.

g. The home occupation shall be confined within the dwelling which shall be the principal building and use on the lot, except as provided in this subsection (d)g, and shall not include use of the garage, whether attached or detached, except for the parking of a vehicle associated with the home occupation.

h. The use of utilities shall be limited to that normally associated with the use of the property for residential purposes. Electrical or mechanical equipment which creates audible interference in radio receivers or visual or audible interference in television receivers or causes fluctuations in line voltage outside the dwelling unit, shall be prohibited.

i. There shall be no on-premises signs advertising the home occupation.

j. Activities conducted and equipment and material used or stored shall comply with the building code.

k. There shall be no use or storage of mechanical equipment not recognized as being a part of normal

household or hobby use.

l. Only one vehicle, not to exceed one-ton capacity, and one trailer which cannot exceed 15 feet, may be related to and used in conjunction with the home occupation and shall be parked on-site except as provided in subsection (d)g of this section. (See also section 24-1022(p).)

m. Only one home occupation shall be permitted per residence unless more than one home occupation can be operated using the same area within the residence, which shall constitute no more than 20 percent of the living space and can operate within the parameters of a single home occupation.

n. The conditions herein may be altered upon reasonable cause and with approval of the community development director.

(2) The production and sale of agricultural produce at a rural home occupation, at which all produce for sale has been grown at the site, shall be permitted within the dwelling and/or from accessory buildings located within 500 feet of the dwelling occupied by those conducting the rural home occupation. Equipment used in the production of agricultural produce shall be that customarily associated with farming or agricultural purposes and shall not be limited in size or number.

(e) Permitted home occupations.

(1) The following list of permitted home occupations are examples of those occupations which are considered to be incidental to and compatible with residential land uses subject to all provisions of subsection (d) of this section, as applicable:

a. Art or photo studio;

b. Sewing or tailoring;

c. Professional office;

d. Teaching or tutoring;

e. Childcare home;

f. Board and care home;

g. Clerical, word processing or desktop publishing services;

h. Barber or beauty shop (for the purposes of this section, body piercing and tattoo establishments shall not constitute a beauty shop);

i. Massage therapists who are state-certified;

j. Agricultural produce sales as provided in subsection (d)(2) of this section; and

k. Any other use determined by the community development director to be incidental to and compatible with residential land uses.

(2) Permitted home occupations that would otherwise exceed subsection (d)(1)e. of this section regarding vehicular traffic shall be considered a major home occupation and shall be required to submit the home occupation request as a use by special review meeting the provisions of article III of chapter 5 of this title regarding special review. The use by special review request, if approved by the planning commission, shall be operated only by the original applicant at the original site and shall expire three years after the date of approval unless renewed under the provisions of subsection (f) of this section

(f) Home occupation permit.

(1) An application for a home occupation permit shall be made to the community development director for all home occupations except childcare homes. Upon completion of an application provided to the community development director or designee and upon verification by the director that said home occupation meets the provisions of this chapter, the director shall issue a home occupation permit, which shall require a fee established by the city manager and which shall be renewed every three years, subject to meeting all provisions herein at the time of renewal. Renewal of major home occupations as provided for in subsection (e)(2) of this section shall require notification of affected property owners and posting

notice for the proposed renewal under the provisions of article II of chapter 5 of this title. If objections to the proposed renewal of a major home occupation are made to the community development director or designee, then renewal of the major home occupation shall follow the provisions of the use by special review procedure as detailed in the applicable sections of article III of chapter 5 of this title.

a. In accordance with the provisions of this chapter, no use of the dwelling shall be made other than residential use and that use as specified on the home occupation permit.

b. A copy of the home occupation permit shall be filed with the city.

(2) If the community development director determines that the use does not meet all of the requirements for a home occupation, then the home occupation permit shall not be issued and the use shall either be brought into full compliance with the provisions of this chapter or the use shall be abandoned and all operations ceased.

(g) Revocation.

(1) A home occupation permit may be revoked or modified by the community development director if any one of the following findings can be made:

a. The use has become detrimental to the public health, safety or welfare, or constitutes a nuisance;

b. The permit was obtained by misrepresentation or fraud;

c. The use for which the permit was granted has ceased or was suspended for six or more consecutive months;

d. The condition of the premises has changed negatively as a result of the home occupation;

e. One or more of the conditions of the home occupation permit have not been met; or

f. The use is in violation of any statute, ordinance, law or regulation.

(Code 1994, § 18.52.036; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Sec. 24-1267. Livestock.

The following provisions shall apply to the keeping of livestock:

ANIMAL UNIT EQUIVALENCY CHART*

Animal Species	*H-A Zone--max 2 animal units per acre* *animal unit equivalents*	*Equivalent number of allowed animals per acre*	*Max number of animals per acre*	*Other Zones--max 1 animal unit per acre* *animal unit equivalents*	*Equivalent number of allowed animals per acre*	*Max number of animals per acre*
Slaughter, feed and dairy cattle, bison, elk, llamas, horses, mules, burros, yaks, alpacas	1.0	1.0	2.0	1.0	1.0	1.0
Swine, butcher and breeding - over 55 lbs.	0.50	2.0	4.0	0.50	2.0	2.0
Sheep, lamb, goats	0.50	2.0	4.0	0.50	2.0	2.0
Turkeys	0.20	5.0	10.0	0.20	5.0	5.0
Chickens, broiler	0.10	10.0	20.0	0.10	10.0	10.0

and layer; rabbits						

(Young stock, less than 50 percent of adult weight, reduces the above equivalency factor by one-half. The term "per acre" refers to areas specifically devoted for animal use.)

*This chart shall not be used in a cumulative fashion. For example, in the H-A Zone, there is a maximum of two animal units permitted per acre. These animal units may be derived from a combination of animals, but in no event shall it exceed the maximum of two animal units per acre.

(Code 1994, § 18.52.040; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Secs. 24-1268--24-1292. Reserved.

CHAPTER 16. TEMPORARY USES AND STRUCTURES

Sec. 24-1293. Purpose and intent.

The purpose of this chapter is to set forth regulations governing temporary uses and temporary structures.

(Code 1994, § 18.53.010; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Sec. 24-1294. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garage or *yard sale* means the occasional sale of new or used goods at a residence, which may be held outside and/or within a garage or accessory building.

Outdoor vendor means any person, whether as owner, agent, consignee or employee, who sells or attempts to sell, or who offers to the public free of charge, any services, goods, wares or merchandise, including, but not limited to, food or beverage, from any outdoor location.

Temporary structure means a structure that exists on an impermanent basis during the operation of the temporary use and may require a building, fire, or other type of permit.

Temporary use means a use that occurs for commercial purposes on private land on an impermanent basis. A temporary use can operate at one location or regularly move locations.

Temporary use permit means the authorization from the city for the operation of a temporary use. The temporary use permit does not exempt the applicant from obtaining any required building permits for associated structures or other applicable permits or approvals from the city or outside public or private agencies.

(Code 1994, § 18.53.020; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Sec. 24-1295. General provisions.

Temporary uses and any associated structures shall be subject to all zoning and other requirements of the Code, including the specific provisions set forth below.

(1) The following are allowable temporary uses per zoning district:

a. Temporary uses shall be considered as accessory uses in the zoning district in which they are permitted, provided they are on lots that contain a principal building or use wherein active operations are being conducted. Temporary uses located on lots wherein active operations have ceased or never existed shall be considered principal uses and shall be subject to change of use provisions of section 24-1144(b)(5). Temporary uses that qualify as accessory uses shall not be subject to change of use provisions of chapter 5 of this title and section 24-1144(b)(5), which would otherwise require the properties on which they are located to be brought into compliance with the standards of this Development Code.

b. Temporary uses shall be limited to 90 days, unless otherwise noted, within a calendar year (i.e., 12 months starting January 1) for the duration of the temporary use. Signage associated with any temporary use shall also be limited to the 90-day provision. Duration of any temporary use may be

extended for 30 days subject to written approval by the community development director if the use is in full compliance with all applicable provisions herein, unless noted otherwise within this Development Code.

(2) A temporary use location shall have safe access, egress, and circulation, including emergency access, shall not impede traffic, and shall not significantly impact access or egress for existing uses.

(3) Setbacks of the applicable zone district shall apply to all temporary uses.

(4) A temporary use shall be subject to the screening requirement for the applicable zoning district, including screening of materials, equipment, and storage.

(5) Where a temporary use is located on a site with another permitted commercial use, adequate on-site parking shall be provided for the temporary use in addition to retaining the minimum required parking for existing commercial use.

(6) Merchandise, equipment or temporary structures shall not be permitted in the public right-of-way, access easements, or required bufferyards or setbacks in the applicable zoning district.

(7) Temporary uses shall operate only on improved sites, unless approved otherwise by the community development director.

(8) The applicant shall obtain all associated, required and applicable approvals, permits, and licenses, including, but not limited to, a temporary use permit, a business license, a temporary sign permit, or outside agency approval, prior to initiating operations.

(9) The location subject to the temporary use permit shall be restored to its original condition upon the earlier of the expiration of such permit or the date operations related to such permit cease except that permanent improvements made to the location may remain with the property owner's written consent.

(10) The community development director may require the review of the administrative review team (ART) for temporary uses that involve multiple departments.

(11) Unless noted otherwise within this Development Code, all temporary uses require approval by the community development director, prior to commencing any activities.

(Code 1994, § 18.53.030; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Sec. 24-1296. Submittal requirements.

(a) Any person, business or organization must submit an application for a temporary use permit in such form and content as may be prescribed by the community development department. Such application shall include:

(1) Written authorization of the property owner or property manager.

(2) A narrative description of the use, associated structures, and the subject property, including duration of use, hours of operation, existing site conditions, method of site restoration, and any other relevant information.

(3) A site plan of the entire property drawn to scale that shows structures, dimensions, structure height, access, egress and circulation routes for the temporary use, parking, trash receptacles, existing and proposed locations of signage, and any other relevant information for the site or use.

(4) A temporary sign permit application in conformance with chapter 17 of this title (if applicable).

(Code 1994, § 18.53.040; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Sec. 24-1297. Special provisions.

(a) Outdoor vendors.

(1) Outdoor vendors shall comply with all outdoor vendor regulations and standards contained in chapter 5 of title 8 of this Code.

(2) Outdoor vendors are not subject to the provision of sections subsections (1)b and (3) of 24-1295.

(3) Outdoor vendors located on lots wherein active operations in the principal building have ceased or never

existed shall be considered principal uses and shall be subject to change of use provisions of chapter 5 of this title and section 24-1144(b)(5) requiring that the properties upon which they are located be brought into compliance with the applicable standards of this Development Code.

(4) Any person who arranges for or allows one or more outdoor vendors to operate at a special event must obtain a temporary use permit in accordance with section 24-1295a.

(b) Outdoor carnivals, circuses, traveling shows, exhibitions, festivals and street fairs shall provide the following:

(1) Before a carnival, circus or traveling show or exhibition may occur on a site, it shall fully comply with business license requirements in title 6 of the city's Code.

(2) Outdoor carnivals, circuses, traveling shows, exhibitions, festivals and street fairs shall provide the following:

a. Restrooms available to the public in adjacent structures or portable restrooms;

b. Adequate access for emergency vehicles;

c. Adequate parking for customers and employees;

d. All vendors meeting current licensing requirements.

(c) Garage or yard sales shall provide the following:

(1) Garage or yard sales are not subject to the requirements of section 24-1295.

(2) A person or group of persons shall sell tangible personal property on the premises of one of the owners or lessees of the premises where the sale is conducted and the owner or lessee shall be responsible for the tangible personal property at the time of the sale.

(3) A person shall not sell merchandise acquired solely for the purpose of resale at an occasional sale.

(4) A person shall not conduct a garage or yard sale for a duration of more than three consecutive days within a calendar year, nor shall he conduct more than two such sales on a premises during any calendar year (i.e., 12 months starting January 1).

(5) Any signs associated with the garage or yard sale shall comply with section 24-1335(a)(11) of the city Code. No signs shall be installed in the public right-of-way and all signs related to the garage or yard sale shall be removed immediately after the sale ends.

(Code 1994, § 18.53.050; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Sec. 24-1298. Temporary structures.

(a) General provisions.

(1) The following provisions shall apply to all those structures which, because of their short-term nature, shall be considered temporary structures.

a. The design and operation of the temporary structure shall be compatible with the design and operation of the principal use of the site and shall not impact such principal use.

b. Upon completion of all temporary occupancy of temporary structures, the site shall be cleaned, all evidence of its use removed and it shall be left in a condition that minimizes adverse impacts to the site and surrounding properties.

c. All signs shall be in conformance with chapter 17 of this title.

d. The administrative review team (ART) shall review all applications for temporary structures.

(b) Operation of a temporary concrete or asphalt batch plant related to and located in proximity to an on-going construction project shall provide the following:

(1) Comply with city, state and federal laws at the batch plant site.

(2) Locate and operate the batch plant in a manner which eliminates excessive dust, noise and odor.

(3) Repair or replace any public improvement that is damaged during operation of the batch plant.

(4) If located adjacent to an established residential area, buffering shall be required as provided in chapter 11 of this title and the hours of operation of the batch plant shall be limited to between 7:00 a.m. and 7:00 p.m.

(5) Upon completion of the related construction project, a new review shall be required if the batch plant is relocated or if it is intended to remain at the same location to serve another construction project.

(c) Temporary construction or sales offices shall provide the following:

(1) The lot used as a temporary construction yard shall be adjacent to the construction site or located in such a manner that access from the temporary yard to the site does not impact public streets or surrounding uses. A sales office shall be limited to sales for the subject site.

(2) Temporary office structures shall be architecturally compatible with surrounding uses and may be permitted on the site until 75 percent of the subdivision is built out.

(3) All structures and materials on a temporary construction yard shall be removed within one month after occupancy of the project for which the construction office is related.

(4) If the sales office is intended as a model home, it shall be completed to meet all building and zoning Code requirements.

(Code 1994, § 18.53.060; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017)

Secs. 24-1299--24-1325. Reserved.

CHAPTER 17. SIGNS

Sec. 24-1326. Purpose and intent.

(a) The purpose of this chapter is to promote, preserve and protect the health, safety and general welfare of the inhabitants of the city by providing reasonable regulations and standards relating to signs.

(b) This chapter shall be referred to as the "City of Greeley Sign Code." It may also be referred to herein as the "sign code."

(c) The intent of this chapter is to provide regulations and standards regarding signs, such that:

(1) The signs visually enhance the property on which they are located, adjacent land uses and the overall city;

(2) Flexibility is provided with respect to the location, dimensions and design of signage consistent with other intents expressed in this sign code;

(3) The public is protected from damage or injury caused by poorly designed or maintained signs or distractions and hazards to pedestrians or motorists caused by the indiscriminate placement or use of signs;

(4) Signs are appropriate for the size of street to which they are oriented;

(5) Signs are appropriate to the type of zoning and land uses to which the signs pertain and any incompatibility between signs and their surroundings is minimized;

(6) Signs are consistent with other community planning, land use, traffic, building and development standards;

(7) This sign code assists in the implementation of the city comprehensive plan goal of fostering attractive design that promotes unique Greeley style; values and priorities and excellence; coordinates and complements historical elements, where appropriate; and supports First Amendment values and the city's economic development; and

(8) Signs that are lawfully nonconforming are induced to come into full compliance with these regulations.

(Code 1994, § 18.54.010; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.010, 5-5-2020)

Sec. 24-1327. Application and installation.

The provisions in this chapter shall apply to all signage within the city.

(1) It shall be unlawful for any person to erect, place, enlarge, alter, repair or convert a sign in the city except in accordance with the provisions of this chapter.

(2) All signs require a permit unless specifically exempted, by this chapter. Fees for sign permits are as established in chapter 22 of the Development Code.

(3) Installation. Except for signs not requiring a permit as described in section 24-1335, a permit must be obtained from the city prior to installation.

(Code 1994, § 18.54.020; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.020, 5-5-2020)

Sec. 24-1328. Variances and appeals.

(a) Variances to the dimensional standards established in this chapter shall be administered in accordance with the provisions in chapter 6 of this title and this section of this Development Code. Variances to any other provision of this chapter shall not be permitted.

(b) Sign variances shall only be granted after a finding of the zoning board of appeals that the application complies with all of the considerations for a variance as specified in chapter 6 of this title and this chapter of this Development Code. In addition to the criteria identified in chapter 6 of this title the board shall consider, but not be limited to, the following factors as applicable in granting a variance:

(1) Historic value as determined by the historical preservation commission;

(2) Architectural integrity;

(3) Any variance granted shall be the minimum needed to accommodate or alleviate the difficulty or hardship involved;

(4) A variance is necessary to accommodate an unusual or atypical lot configuration or physical aspect of the site which makes a reasonable use of the property unreasonable without a variance;

(5) Any difficulty or hardship constituting the basis for a variance shall not be created by the party seeking the variance, nor shall it be due to or a result of the general conditions in the area;

(6) Granting the variance is necessary to alleviate a health or safety issue related to the site;

(7) Granting the variance is consistent with the comprehensive plan, area and/or neighborhood plans, or may achieve a better result in meeting the intent of the plan objectives than if the codes were strictly applied.

(c) Sign variances shall not be transferable to a new location on the property unless first approved in writing by the community development director that the changed location on the site substantially complies with the conditions of the original variance. Changes to a sign that received a variance, with the exception of changes in sign text or copy that do not result in any structural changes to the sign, shall require compliance with all applicable provisions of this Development Code.

(d) Any sign variance which was in effect and applied to an installed sign still in place prior to the adoption of the ordinance from which this Development Code is derived, as amended, may be continued under the provisions of that variance until a change to a sign is requested, at which time a new variance shall be applied for or the sign shall comply with all applicable provisions of this Development Code.

(e) Appeals shall be conducted under the provisions of chapter 7 of this title.

(Code 1994, § 18.54.030; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.030, 5-5-2020)

Sec. 24-1329. Enforcement.

(a) Enforcement of the provisions of this chapter shall be by the community development director or his designee in accordance with chapter 10 of title 1 of the Code.

(b) Public right-of-way--Illegal or unauthorized sign.

(1) In addition to all other enforcement authority available to the city, the city may also remove or cause to

be removed any illegal or unauthorized sign from the public right-of-way without notice to any party. The cost of removal as may be assessed by the city is the responsibility of the owner of the sign or, if unknown, the owner of the property.

(2) The city shall have the authority to dispose of all unauthorized or illegal signs removed from the public right-of-way without notice to the owner of such signs. The cost of removal and storage of removed signs as may be assessed by the city shall be the sole responsibility of the owner of the sign.

(c) Private property--Illegal or unauthorized sign. The property owner or resident of the property may remove signage that is unauthorized or illegal.

(Code 1994, § 18.54.040; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.040, 5-5-2020)

Sec. 24-1330. Definitions and interpretations.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned sign means:

(1) A sign or sign structure and components, for which no legal owner can be found; and/or

(2) A sign and structure which are used to identify or advertise a business, tenant, owner, product, service, use, event or activity that has not been located on the premises for a period of 90 consecutive days or longer.

Address sign means a type of required sign that displays the address of a building or property, as required by the applicable fire and/or building code.

Advertise means to attract attention to a business, product, service, use or event with a sign, display item or other device, such as flags, pennants, air driven devices and lights.

Animated sign (see *Flashing or animated* or *Imitating sign*).

Art means all forms of original creations of visual art, including, but not limited to, sculpture; mosaics; painting, whether portable or permanently fixed, as in the case of murals; photographs; crafts made from clay; fiber and textiles; wood; glass; metal; plastics; or any other material or any combination thereof; calligraphy; mixed media composed of any combination of forms or media; unique architectural styling or embellishment, including architectural crafts; environmental landscaping; or restoration or renovation of existing works of art of historical significance. Works of art are not intended to be used for commercial advertising purposes.

Awning means a framed exterior architectural feature, attached to and supported from the wall of a building and/or held up by its own supports, which provides or has the appearance of providing shelter from the elements to pedestrians, vehicles, property or buildings.

Awning, internally illuminated, means any transparent or translucent backlit awning or awning lettering which transmits light from within the awning to the outside surface of the awning.

Awning sign means a sign that is mounted or painted on or attached to an awning.

Backing means the background area of a sign, which differentiates the total sign display from the background against which it is placed.

Banner means a sign applied to flexible materials (e.g., cloth, paper or fabric of any kind) with no enclosing framework.

Beacon (see *Searchlight, strobe light or beacon*).

Building appurtenance means the visible, functional or ornamental object accessory to and part of a building.

Building frontage, principal, means the horizontal linear dimension which is designated as the primary facade of that portion of a building occupied by a single use or occupancy.

Building frontage, secondary, means that dimension of a building abutting a public right-of-way other than the principal building frontage.

Building signs means signs that are attached to and supported by a building; whether the wall, window, or roof of a building.

Candela is a unit of luminous intensity, defined as the luminous intensity of a source that emits monochromatic radiation of frequency 540×10^{12} Hertz and that has a radiant intensity of 1/683 watt/steradian, and adopted in 1979 as the international standard of luminous intensity.

Canopy means a roofed structure for the purpose of shielding pedestrian walkways or driveways which service operations or equipment, such as with a gas station or bank drive-up facility.

Centerline (of public right-of-way) means a line running midway between the bounding right-of-way lines of a street or alley. For the purposes of signage calculation, the term "centerline" means the apparent centerline of the road determined by finding the point midway between the outer edges of the road surface.

Changeable copy sign (also known as a *marquee sign*) means a sign designed to allow the changing of copy as with individual letters through manual means, without altering the sign backing or structure in any such way.

Channel letters, individual letters, raceway or channel sign means individual letters, flat cutout letters or symbols constructed to be applied singly in the formation of a wall sign or a freestanding sign.

Clear vision zone or area means that area within which the city requires an unobstructed line of sight necessary for most drivers stopped at an intersection to see an approaching vehicle, pedestrian or bicyclist to avoid a collision.

Cornerstone means a stone forming a part of a corner or angle in a wall that provides building identification.

~~*Day* means a calendar day.~~

Dissolve means a mode of message transition on an electronic message display accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

Electronic message display means a sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Exposed incandescent or high intensity discharge lighting means any sign or portion of a sign that utilizes an exposed incandescent or high intensity lamp, with the exception of neon.

Fade means a mode of message transition on an electronic message display accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

Figure means outline, shape or pattern of numbers, letters or abstract images.

Flag means a finished piece of flexible material designed to be attached to or flown from a flagpole or similar device and which typically (but not necessarily) displays the name, insignia, emblem or logo representing a nation, state, municipality, civic group, idea, sports team, or other commercial or noncommercial organization (see also *Pennants*).

Flashing or animated means signs or lighting with flashing, blinking, moving or other animation effects, or that give the visual impression of such movement by use of lighting, or intermittent exhibits or sequential flashing of natural or appearance of artificial light or colors, including those signs that rotate, revolve, spin, swing, flap, wave, shimmer or make any other motion, or illusion of motion, or which imitate official governmental protective or warning devices (see *Imitating sign*).

Frame (EMD) means the content (images, text, background colors, etc.) that is displayed on an electronic message display at a fixed point in time.

Frame effect means a visual effect that is used on an electronic message display to attract the attention of viewers by displaying modified versions of a frame (e.g., changes in brightness, contrast, color, perspective, or content elements) in succession, providing the effect of animation or transition (e.g., fade or dissolve).

Freestanding sign means a sign which is not attached to a building. A freestanding sign shall include, but is not limited to, a pole, monument, a canopy and freestanding wall sign. A sign that extends more than four feet from a wall but is attached and/or is part of a canopy, or an awning shall be considered a freestanding sign.

Freestanding wall or *fence* means either a wall that is not attached to a building, or a wall attached to a building that projects more than four feet beyond the exterior wall of the habitable portion of the building.

Frontage lot/property means that portion of a lot that is directly adjacent to a public street.

Ghost sign means old hand-painted signage that has been preserved on a building for an extended period of time, whether by actively keeping it or choosing not to destroy it.

Grade means the average elevation of the finished surface of the ground, paving or sidewalk with a radius of five feet from the base of the structure.

Graphic means drawings, decals, paint or illustrations.

Ground kites are freestanding frames usually covered with flexible fabric and designed to be animated by the wind to attract attention. Ground kites may also be referred to as "feather flags" or "teardrop flags."

Historic sign means a sign that has been officially designated as an historic landmark.

Holiday decoration means temporary decorations, lighting or displays which are clearly incidental to and customarily and commonly associated with any national, state, local, religious or commonly celebrated holiday.

Human sign means a person carrying or wearing a sign.

Illumination means the use of artificial or reflective means for the purpose of lighting a sign.

Imitating sign means signs which purport to be, are an imitation of, or resemble an official traffic sign, signal or equipment which attempt to direct the movement of pedestrian or vehicular traffic using the terms such as "Stop," "Danger" or "Caution" to imply a need or requirement to stop, or a caution for the existence of danger, such as flashing red, yellow and green (see *Flashing or animated sign*).

Incidental sign means signs, emblems or decals attached to a building or permanent structure that are less than 80 square inches in sign area, and not applied in a cumulative manner so as to circumvent the provisions of the sign code.

Indirect lighting means reflected light or lighting directed toward or across a surface.

Individual letters (see *Channel letters*).

Inflatable sign or *inflatable object* means any object filled with air or other gas, whether sealed (e.g., balloons) or driven by a fan (e.g., "sky dancers"), which is intended to attract attention from adjacent properties or rights-of-way.

Internal illumination means a light source that is contained within the sign itself, or where light is visible through a translucent surface.

Joint sign means a sign, structure or surface which serves as a common or collective medium for display of messages by two or more occupants of the same property (see *Multi-tenant sign*).

Kiosk means a freestanding structure upon which temporary information, such as posters, notices, or announcements, are posted.

Leading edge means the point of a sign, including its support structure, nearest to the public road right-of-way.

Legally nonconforming signs are signs which were lawfully constructed and erected prior to the most recent enactment of this chapter and have been maintained as a sign, but which no longer comply with the provisions of this chapter as amended.

Legible means a sign capable of being read with certainty without visual aid by a pedestrian of normal visual acuity from a specified vantage point (or if no vantage point is specified, from the adjacent street right-of-way or adjacent private property).

Maintenance of a sign means cleaning, repairing, painting or replacement of defective parts in a manner that does not alter the dimension, material or structure.

Menu board means a permanently mounted sign at a drive-in or drive-thru facility that is not legible from the

adjacent street right-of-way.

Monument sign means a freestanding sign supported primarily by an internal structural framework or other solid structure features where at least 60 percent of the base of the sign is in contact with the ground.

Multi-tenant sign means a sign which displays messages for two or more tenants of a multi-tenant property.

Neon means a sign illuminated by a light source consisting of a neon or gas tube that is bent to form letters, symbols or other shapes.

Nits means a unit of measurement of luminance, or the intensity of visible light, where one nit is equal to one candela per square meter.

Nonconforming sign (see *Legally nonconforming signs*).

Off-premises advertising device means a sign or device that advertises a business establishment, good, facility, service or product which is not sold or conducted on the premises on which the sign or device is located, and which may be designed to change copy on a periodic basis.

On-premises sign means a sign which advertises or directs attention to a business, product, service or activity which is available on the premises where the sign is located.

Parapet wall means an extension of the fascia wall above the roofline, which appears contiguous architecturally.

Pennants means any long, narrow, usually triangular flag typically made of lightweight plastic, fabric or other material, usually found in a series on a line and designed to move in the wind.

Permanent sign means a sign attached to a building, structure, or the ground in a manner that precludes ready removal or relocation of the sign.

Permitted sign means a sign having a legal permit issued in accordance with the provisions of this chapter.

Pole or pylon sign means a freestanding sign that is permanently supported in a fixed location by a structure of one or more poles, posts, uprights, or braces from the ground and not supported by a building or base structure (other than a footer).

Portable sign means a sign that is not permanently affixed to a building, structure or the ground and that is easily moved, such as a sandwich board sign.

Premises means the land, site or lot at which, or from which, a principal land use and activity is conducted.

Projecting wall sign means any sign attached to a building and that extends more than 20 inches from the surface to which it is attached, but no more than four feet from the wall of the building. Signs projecting more than four feet from the building shall be considered freestanding signs.

Public sign means a sign erected and maintained by or on behalf of the city or a governmental entity that is not subject to the city's jurisdiction, on property owned or controlled by the city or governmental entity; or a sign that is required or specifically authorized for a public purpose by any law, statute, ordinance, resolution, or approved development plans, including way-finding signs installed by a governmental entity within the public right-of-way, traffic control devices; public notices, and the like.

Required sign means a sign that is required to be displayed on private property by an applicable law (e.g., a sign displaying the address of property as required by the building code, signs required by the Occupational Health and Safety Act, etc.).

Roof sign means a sign that is mounted on the roof of a building or structure, such as a portico, which is wholly dependent upon a building for support and which projects above the parapet of a building with a flat roof or above the peak of the roof of that portion of the roof on which the sign is placed.

Searchlight, strobe light or *beacon* means a stationary or revolving light that flashes or projects illumination, single color or multicolored, in any manner that is intended to attract or divert attention; excluding any device required or necessary under the safety regulations described by the Federal Aviation Administration or similar agencies.

Sight distance (see *Clear vision zone or area*).

Sign means any device, surface, object, structure, building architecture or part thereof using graphics, symbols or written copy for the purpose of advertising, identifying, or announcing or drawing attention to any establishment, product, goods, facilities, services or ideas, whether of a commercial or noncommercial nature.

Sign allowance means the amount of signage that is allowable under the provisions of this chapter.

Sign alteration means any change of copy (excluding changeable copy signs), sign face, color, size, shape, illumination, position, location, construction or supporting structure of any sign.

Sign area means the entire face of a sign and any backing, frame, trim or molding, and which may include the supporting structure.

Sign backing means the surface, pattern or color of which any sign is displayed upon, against or through and that forms an integral part of such display and differentiates the total display from the background against which it is placed.

Sign face means the area of the sign on which the copy is placed, or, for individual cutout letters, painted letters, channel letters or symbols, the perimeter of the individual elements shall be considered the area of the sign.

Sign frame means a sign cabinet or that portion of the sign that holds the sign face in place.

Sign height means the vertical distance measured from the grade, as defined herein, to the highest point of the sign or sign structure.

Sign, interior to a building, means signs inside buildings that are not legible from the public right-of-way.

Sign, interior to development, means any sign that is located so that it is not legible from any adjoining property or the public right-of-way and not oriented in such a way as to attract the attention of those traveling along the right-of-way.

Sign permit means a permit issued by a building official and which is required for any sign specified under section 24-1331.

Sign separation means the distance or spacing between individual signs, whether they are on the same structure or on separate structures, as measured by a straight line.

Sign setback means the minimum distance required from the apparent centerline of the right-of-way to any portion of a sign or sign structure.

Sign structure means the supports, uprights, bracing or framework of any structure for the purposes of displaying a sign.

Site sign means a temporary freestanding sign constructed of vinyl, plastic, wood or metal and designed or intended to be displayed for a short period of time on a construction project.

Sky dancers means freestanding tubes which often simulate the shape of a person into which air is forced to inflate and animate and which do not characterize a commercial message or contain a message.

Symbol means a graphic device which stands for a concept or object.

Teardrop sign (see *Ground kites*).

Temporary sign means any sign not intended for permanent installation, such as, but not limited to, a yard sign, site sign, banner, balloon, pennant, searchlight or beacon.

Transition means a frame effect used on an electronic message display to change from one message to another.

Vehicle signs means signs which are attached to or located on licensed vehicles, trailers or semi-trailers and contain or display signage for the primary purpose of advertisement, excluding bumper stickers on the bumper, and similar-sized adhesive decals.

Wall sign means a sign attached parallel to and extending less than 20 inches from the wall of a building, fence or freestanding wall. Wall signs shall include painted, individual letter, cabinet signs and those signs located below the peak of the roof of a building which are not specifically defined as roof signs.

Wind sign (see *Pennants, Ground kites* and *Sky dancers*).

Window sign means any signage or graphics applied directly to a window surface or any sign hanging within 12 inches of the interior surface of a window, or which is clearly evident through a window and oriented to attract the public onto the premises.

Yard sign means a temporary portable sign constructed of paper, vinyl, plastic, wood, metal or other comparable material, and designed or intended to be displayed for a short period of time.

(b) *Interpretation.* This sign code is not intended to, and does not restrict speech on the basis of its content, viewpoint, or message. No part of this sign code shall be construed to favor commercial speech over non-commercial speech. Messages may be changed without the need for any approval or permit, provided that the size and structure of the sign are not altered. To the extent any provision of this code is ambiguous, the provision shall be interpreted not to regulate on the basis of the content of the message.

(Code 1994, § 18.54.050; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.050, 5-5-2020)

Sec. 24-1331. Sign permits.

(a) The building official shall be responsible for issuing all sign permits once approved by the planning division staff, which shall be responsible for reviewing all sign permits for compliance with this Development Code.

(b) A sign permit shall be required for all signs unless exempted from the provisions of this chapter. The replacement, repair or major alteration of a sign shall require a new sign permit.

(c) The following information shall be submitted for a sign permit:

(1) Completed sign permit application signed by the property owner, tenant and/or licensed sign contractor, which shall include the following:

a. The name, address and telephone number of the property owner, business owner or licensed sign contractor;

b. The location, by street address, of the proposed sign; valuation of proposed work; and

c. The zoning district in which the property is located. An affidavit (sworn statement) of notice to the property owner is required, if submitted by a business owner or contractor.

(2) Plans for the proposed sign, including, but not limited to:

a. For each sign:

1. Scaled drawing of sign elevation, including area to be occupied by lettering, symbols or images, with dimensions; sign type; method of illumination, construction materials; projection or depth of sign cabinet;

2. Site plan showing the adjacent streets and location of property lines;

3. Plans showing the scope and structural detail of the proposed work, including details of structural connections, guidelines, supports and footings, and materials to be used;

4. An inventory of all existing signs located on the property (a tenant may provide this information for the lease holder area only) related to the specific business that will remain and be removed, including location, dimensions, heights and types of signs; and

5. If reasonably known, identify any signs that are nonconforming, have received a variance, have utilized a nonconforming one-time change rule, have combined two smaller signs into one larger sign, or have utilized any bonuses.

b. For wall signs: Scale drawing with building dimensions, the square footage for each tenant and the total square footage for the building; elevations showing the sign location, facade dimensions and roof lines.

c. For freestanding signs: Scale drawing of site layout including sign location, property lines, setbacks, adjacent public rights-of-way, street names, buildings and improvements, parking areas, drive aisles and landscaped areas in the vicinity of the proposed sign; dimensions of the sign and

its support structure and members; and proposed height of the sign.

(3) An indication of application for electrical permits for all electric signs; when applicable, such permits will be issued separately through the building inspection division.

(4) Other information, as required by the city, to ensure a complete and comprehensive review of the proposed sign.

(Code 1994, § 18.54.060; Ord. No. 34, 2010, § 1, 10-19-2010)

~~**Sec. 24-1331.54.070 Reserved.**~~

~~**Editor's note**— Ord. No. 43, 2016 , § 1, adopted Dec. 20, 2016, repealed § 18.54.070, which pertained to sign contractor license and derived from Ord. No. 34, 2010, § 1, 10-19-2010.~~

Sec. 24-1332. General provisions.

(a) Written interpretations. The community development director shall be responsible for interpretation of this chapter. Appeals to interpretations by the community development director shall be subject to the provisions of section 24-1328 (see section chapter 7 of the Development Code).

(b) Sign classification. If the provisions within this chapter do not identify a particular type of sign, or if a sign may be classified under two or more definitions, the sign shall be classified according to that description which most specifically describes it and which furthers the purposes of this chapter.

(c) Interior to a development signs not legible beyond the boundaries of the property on which they are located and which are not intended to attract off-site attention shall not be counted for the purpose of zoning regulations toward signage calculations, except window signage that exceeds 25 percent of the window area. Any sign constructed interior to the development may be subject to building permit provisions.

(d) Primary structure required. With the exception of required and temporary signs, signs shall not be permitted unless there is a primary structure on the parcel.

(e) Other Code requirements. All signs within the city shall comply with the adopted building and electrical codes, model traffic code, historic preservation and other codes and ordinances as adopted by the city. All electric signs shall comply with and bear independent testing laboratory labels. In the event of any conflict between any of these codes or ordinances and this chapter, the more restrictive provision shall apply.

(f) Trees and shrubs. No person may, for the purposes of increasing or enhancing the visibility of any sign, damage, destroy, trim or remove any trees or shrubs located within the public right-of-way or as per an approved use by special review, design review or any other land use zoning permit unless the work is done pursuant to written authorization of the community development department.

(g) Signs in right-of-way. Except as otherwise permitted elsewhere in this Development Code, no signs other than regulatory signs are allowed in the public right-of-way except as provided by a right-of-way revocable sign permit.

(h) Consistent and complementary. All signs installed after the adoption of the ordinance in this chapter shall be designed to be consistent and compatible with the character of the principal buildings to which the signs relate, including the use of similar or complementary colors and materials in the design and construction of signs and its surroundings.

(i) Sign lighting. Signs may be internally illuminated, backlit or illuminated by down-lighting or by ground-mounted light fixtures that illuminate only the sign face and base and shall conform to the following:

(1) Illuminated signs on the C-D, H-A and all residentially zoned properties or illuminated signs on commercial or industrial zoned properties immediately adjacent to residentially zoned properties shall either have an opaque background and translucent letters or letters without background lighting;

(2) In no case shall sign lighting create more than one-tenth footcandle impact on habitable residential uses in residentially zoned areas;

(3) Neon lighting shall only be permitted within the graphics (e.g., logos or images) or lettering of a sign;

(4) Illumination of the sign face by down-lighting or ground mounted light fixtures shall not exceed 50

footcandles as measured on the sign face; and

(5) Flashing or strobe lighting shall not be permitted, whether used as part of a sign or to draw attention to a site or location.

(Code 1994, § 18.54.080; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.080, 5-5-2020)

Sec. 24-1333. Sign measurements and orientation.

(a) The following rules shall apply to the measurement of signs in all zoning districts:

(1) The area of a sign is measured by determining the total sign face, which includes the backing and the frame of the sign.

(2) The area of a sign shall be measured utilizing a single, continuous rectilinear perimeter of not more than 12 straight lines, the extreme limits of writing, representation, lines, emblems or figures contained within all modules, together with any air space, materials or colors forming an integral part or background of the display or materials used to differentiate such sign from the structure against which the sign is placed. For replacement of existing signs, the applicant may choose to utilize an exact calculation of sign area in lieu of this requirement.

(3) A freestanding sign area and its support structure may be equal in size to 1 1/2 times the maximum-sized sign allowance at that location. The base of a monument sign shall not be counted as part of the calculation, provided that:

a. The base does not account for more than one-third of the combined area of the sign face and the base;

b. At least 60 percent of the bottom edge of the sign, including its supports and structure, has contiguous contact with the ground. Where the base has an unusual shape, such as circular or diamond-shaped, the bottom of the base shall be determined by measuring at a point that is one-third of the distance from the ground to the top of the base; and

c. Any portion of the base that contains signage will be counted, with the exception of a numeral address that is clearly incidental to the sign.

(4) The area of a sign which has multiple sign faces not parallel to the right-of-way, such as V-shaped, triangles or cubes, shall be calculated using the total of all faces which may be viewed at the same time from the public right-of-way or adjacent property.

(5) All writing, representations, emblems or figures forming an integral part of a display used on an awning to identify, direct or attract the attention of the public shall be considered to be a sign for the purposes of measurement.

(6) Internally illuminated awning signs that are translucent, with backlighting, shall include the entire area of the awning in the calculation of the sign area (see also subsection 24-1338(a)).

(b) The height of a sign shall be determined by measuring the vertical distance from the adjacent grade to the highest point of the sign or sign structure. For the purposes of this section, the term "grade," as a point of measure, shall mean either of the following, whichever yields a greater sign height:

(1) The elevation of the highest ground surface within a five-foot horizontal distance from the leading edge of the sign, when there is less than a ten-foot difference between the highest and lowest ground surfaces within a five-foot horizontal distance from said sign (see figure 24-38); or

[GRAPHIC - Figure 24-38]

(2) An elevation ten feet higher than the lowest ground surface within a five-foot horizontal distance from the leading edge of the sign, when there is greater than a ten-foot difference between the highest and lowest ground surface within a five-foot horizontal distance from said sign (see figure 24-39).

[GRAPHIC - Figure 24-39]

(c) The determination of sign orientation shall be as follows:

(1) The orientation of a freestanding sign is to the nearest public right-of-way to which it is perpendicular or parallel;

(2) The orientation of a wall sign is to the nearest street with the highest traffic volume;

(3) The orientation of a projecting wall sign is to the nearest street with the highest traffic volume and to which the sign is most nearly perpendicular;

(4) The orientation of all other signs, including canopy signs, shall be to the nearest public right-of-way; or

(5) The principal orientation of any sign shall be determined by the administrative official in accordance with the standards in this chapter, street classification and the intent of this Development Code.

(Code 1994, § 18.54.090; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.090, 5-5-2020)

Sec. 24-1334. Sign setbacks.

The minimum distance required between the apparent centerline of the right-of-way and any portion of a sign or sign structure. Where the property is adjacent to a frontage road, the centerline of the highway to the leading edge of the sign is used to determine setback (i.e., frontage road is disregarded for calculation of the setback). (See figures 24-40 and 24-41.)

[GRAPHIC - Figures 24-40 and 24-41]

(Code 1994, § 18.54.100; Ord. No. 11, 2020, exh. A, § 18.54.100, 5-5-2020)

Sec. 24-1335. Signs not requiring a sign permit.

(a) Any sign listed in this section shall not require a sign permit if the sign complies with the provisions of this section. Except as may be required under the adopted building and electrical codes, such signs shall not require a sign permit and are allowed. Signs that exceed these provisions for size or sign area shall require a sign permit as provided for in section 24-1338.

(1) Required signs.

(2) Change of copy. Once a structure receives legally conforming status from the city, the sign copy may thereafter be changed without a permit. All other copy changes, such as painted signs or channel lettering, shall require a sign permit.

(3) Changeable copy. Where a sign frame or structure has been approved as a changeable copy sign, subsequent changes of copy only shall not require a permit.

(4) Temporary signs associated with approved temporary uses under section 24-1297, provided that the schedule for display and removal of the signs is set out in the temporary use permit.

(5) Construction site sign. Up to three site signs per street frontage are allowed as follows:

a. Construction site signs on H-A, C-D and all residentially zoned properties shall not exceed seven square feet of sign area per face and five feet in height. Properties greater than 2 1/2 acres are allowed up to one 32-square-foot sign.

b. Construction site signs on nonresidential zoned properties with less than 200 feet of lot frontage shall not exceed 24 square feet of sign area per face and eight feet in height;

c. Construction site signs on nonresidential zoned properties greater than 200 feet and less than 500 feet of frontage shall not exceed 32-square-feet of sign area per face and eight feet in height;

d. Construction site signs on nonresidential zoned properties with greater than 500 feet of frontage shall not exceed 64 square feet per sign face and ten feet in height; and

e. The sign may be displayed no more than 45 calendar days before and 45 calendar days after the completion of construction.

(6) Cornerstone sign. A cornerstone may be up to a total of four square feet in size.

(7) Directional on-premises sign. A property may have any number of directional on-premises signs sufficient to safely direct customers to key locations; however, each shall not exceed six square feet in

size per face, nor five feet in height. Such signs shall not include the business name or logo but may include a single background color associated with the business.

(8) Yard signs and site signs.

a. Yard signs and site signs are allowed in all zoning districts and are subject to the following provisions:

1. The total cumulative area that is allowed under this subsection (8) is as follows:

Lot Size	Less than 1/4 acre	Over 1/4 acre to 1 acre	Over 1 acre to 3 acres	Over 3 acres to 5 acres	Over 5 acres
Sign Allowance (cumulative square feet)	64 square feet	128 square feet	192 square feet	224 square feet	256 square feet

2. No individual sign shall have a sign area that exceeds 32 square feet.

3. Yard signs and site signs may be located on a property only with the consent of the property owner, authorized property manager, or legal tenant.

In no event shall a yard sign or site sign be posted or displayed in a manner or location that limits sight visibility to the traveling public or in such a way that creates a vehicular or pedestrian traffic obstruction or hazard.

b. If an individual sign installed pursuant to this subsection (8) exceeds six square feet, it is counted towards any applicable standards of subsection (6) above.

(9) Flag. Flags are allowed which do not exceed a maximum size of 150 square feet in size per flag. A total of 300 square feet flag area is allowed per property.

a. No part of any flag when fully extended shall protrude over any public right-of-way or property line in any direction.

b. The freestanding maximum mounting height of flags shall be equal to or less than the maximum building height allowed in the zone district in which the flag is located or ten feet above the height of the principal structure on the premises, whichever is less.

c. The flagpole for any individual flag over 100 square feet must be set back at least equal to the flagpole height from the property line.

(10) Holiday decoration. Temporary decorations, lighting or displays which are clearly incidental to and customarily and commonly associated with any national, state, local, religious or commonly celebrated holiday shall be displayed not more than 60 days prior to the holiday, and no more than 30 days after the holiday. Such decorations may be of any type, number, size, location, illumination or animation if the decorations are located so as not to conflict with traffic regulatory devices or create a traffic hazard.

(11) Incidental sign. The combination of incidental signs shall not exceed 1 1/2 square feet in sign area per building entrance.

(12) Portable sign. One portable sign is allowed per storefront if it can meet all of the following conditions:

a. Is located within 20 feet of the principal public entrance to the tenant or occupant that displays the sign;

b. Is no larger than six square feet per face and no greater than 48 inches in height;

c. ~~Is located outside of clear vision zones [see subsection 18.44.140(e)]~~ Does not interfere with the unobstructed line of sight necessary for most drivers stopped at an intersection to see an approaching vehicle to avoid a collision;

d. Is in place only during hours of operation;

e. Is not posted or displayed in a manner or location that limits sight visibility to the traveling public or in such a way that creates a vehicular or pedestrian traffic obstruction or hazard;

f. Two immediately adjacent tenants or occupants may share a single sign, not to exceed the standards listed above; and

g. Any portion of a portable sign located within the public right-of-way must be authorized by a right-of-way revocable sign permit from the city.

(13) Public sign. Public signs may be of any type, number and area, height above grade, location, illumination or animation required by the law, statute or ordinance under which the signs are erected. Public signs, government signs and signs on public bus benches and/or shelters in the right-of-way shall not be subject to a right-of-way revocable sign permit. Signs on governmental property outside of the right-of-way shall require a right-of-way revocable sign permit.

(14) Detached wall signs or monument signs at subdivision or multifamily complex entry points. Detached wall signs or monument signs that are located within 40 feet of a street intersection that provides entry into a subdivision or multifamily complex, provided that they are no greater than 20 square feet in sign area, including all sign faces, and not greater than six feet in height. Two residential complex identification signs are allowed per intersection.

(15) Signs within building. A sign permit is not required where signs are located inside buildings and are not legible from the public right-of-way or, if legible, are within allowed window sign limits.

(16) Vehicle signs. It shall not be a violation of this chapter if the vehicle to which a sign is mounted, painted or otherwise affixed is used for travel between home and work or is temporarily parked away from the business premises while being used to provide the business' services or products, or as personal transportation for the vehicle operator. A parked vehicle which contains or displays signage is allowed when:

a. The sign does not extend more than one foot above the roofline of the vehicle;

b. The vehicle is not illuminated or does not have flashing signs;

c. The vehicle is licensed and operable; and

d. The vehicle is in use or legally parked.

(17) Wind driven devices. The following devices, which are designed to move with wind or forced air, are allowed as follows, provided that signage is not affixed to the device:

a. *Pennant*. A pennant flag may be a maximum of one square foot per flag face, and pennant lines shall be no longer than the front lot line or exceed the height of the building. For residential zoned properties, pennants are allowed for open house events only three days per year. For commercial and industrial zoned properties, pennants are allowed on a single property for any length of time, provided they are maintained and in good condition.

b. *Ground kite*. Ground kites are allowed only in commercial or industrial zoned properties as follows:

1. Ground kites shall be affixed to the ground and shall not exceed two feet wide and eight feet tall.

2. One ground kite is allowed for every 25 feet of lot frontage.

c. *Sky dancer*. Sky dancer devices are allowed only in commercial and industrial zoned properties as follows:

1. Sky dancers shall be affixed to the ground and shall not exceed two feet wide and eight feet tall.

2. One sky dancer is allowed for every 50 feet of lot frontage, with a maximum of three for each property.

d. *Wind signs*. Wind signs cannot be used in combination on a property, unless approved in advance with a temporary sign permit.

(18) Window sign. A window sign is allowed but shall not exceed 25 percent of the glass surface of individual windowpanes that are visible from the public right-of-way.

(Code 1994, § 18.54.110; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017; Ord. No. 11, 2020, exh. A, § 18.54.110, 5-5-2020)

Sec. 24-1336. Prohibited signs.

(a) Except for signs within buildings and not legible or intended to attract the attention of persons outside the building, or signs interior to a development, the following signs are declared to be a public nuisance and are prohibited in all zoning districts of the city. They must be removed unless determined to be legally nonconforming except as provided herein.

(1) *Abandoned signs*. A sign determined to be abandoned as defined in this chapter must either be removed or covered to conceal the sign copy, confirming its abandonment.

(2) *Exposed incandescent, high intensity exposed light bulbs*. The use of exposed light bulbs independently or as a sign or portion of a sign that is visible from any property line on which the sign is located is prohibited.

(3) *Flashing, animated or imitating signs, including signs that have moving, blinking, chasing, scrolling or other animation effects*. Such signs, either inside (including, but not limited to: open signs and electronic display signs, etc.) or outside of a building, and which are legible from a public right-of-way must be removed except as follows:

a. Electronic message boards which do not change copy more frequently than every once every 30 seconds as otherwise permitted in this chapter.

(4) *Imitating sign*. Regardless of whether any clear safety concerns are present.

(5) *Off-premises sign*. Except as follows:

a. Temporary signs which are located on a common area outlot, approved by the property owners' association; and

b. When two or more adjacent landowners co-locate signage on a single sign structure or on a shared property line through a legally binding agreement. For the purposes of this provision, the combined lot frontage is used to determine the number of signs allowed.

(6) *Nongovernmental signs on public utilities*. No sign may be attached to utility poles or other public structures within the public right-of-way, except as specifically authorized by the city.

(7) *Roof signs*.

(8) *Signs in the public right-of-way*. Signs located in any portion of the public right-of-way that do not meet the provisions of this chapter or that do not have a right-of-way revocable sign permit.

(Code 1994, § 18.54.120; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.120, 5-5-2020)

Sec. 24-1337. Temporary signs, including portable signs, searchlights and beacons.

(a) Temporary signs shall be allowed per tenant in addition to the amount of permanent signage that is otherwise permitted. Temporary signs require a temporary sign permit. Except as provided in section 24-1335, temporary signs shall comply with all other applicable provisions of this chapter, including the provision of section 24-1331.

(b) The total amount of temporary signage shall not exceed 33 square feet in all residential R-H and C-L zones, or 50 square feet in all other commercial and industrial zones.

(c) Temporary signs shall be allowed for any individual commercial or industrial use for no more than a total of 60 days in any calendar year.

(d) If more than one temporary sign is proposed, each sign will count towards the total calendar year

allowance (i.e., 3 signs for 20 days = 60 days). The total sign area for all signs shall not exceed the total amount of temporary sign allowance.

(e) Temporary signs associated with a temporary use under the provisions of section 24-1295 shall be limited to the duration of the temporary use, not to exceed more than 90 days in any calendar year. The temporary sign permit may be extended for up to an additional 30 days, provided the community development director has granted an extension of the associated temporary use.

(f) Any property that contains an outdoor electronic messaging display will not be permitted any additional temporary sign allowance.

(g) Balloons, inflatable signs and other inflatable objects containing text and/or graphics, which have a total visible area (individually or combined) that does not exceed 33 square feet, shall be considered a temporary sign and shall require a sign permit. Balloons that do not contain text and/or graphics shall not require a sign permit. No balloon, inflatable sign or other inflatable object shall exceed the height of the principal building on the site and shall not extend over the public right-of-way when fully extended or impede pedestrian or vehicular traffic.

(h) Searchlights or beacons shall be considered temporary signs, shall require a sign permit and are allowed a maximum of three days per calendar year. Searchlights or beacons shall not be placed or used in such a way that impedes pedestrian or vehicular traffic, or results in light or glare at grade.

(Code 1994, § 18.54.130; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 1, 2017, § 1(exh. A), 1-17-2017; Ord. No. 11, 2020, exh. A, § 18.54.130, 5-5-2020)

Sec. 24-1338. Signs requiring a sign permit.

(a) The following signs shall require a sign permit.

(1) Awning sign.

(2) Canopy sign.

(3) Electronic messaging display.

(4) Freestanding and monument sign.

(5) Projecting wall sign.

(6) Wall sign.

(b) Awning sign.

(1) If more than 25 percent of the exterior surface of an awning is devoted to sign copy, the entire exterior surface of the awning shall be considered a sign;

(2) The entire illuminated exterior area of an internally illuminated awning sign shall be included in the calculation of the sign area;

(3) Awning signage will count towards the total wall sign allowance; and

(4) Any portion of an awning sign projecting over the public right-of-way must obtain a right-of-way revocable sign permit from the city.

(c) Canopy sign.

(1) If the canopy is attached to a building, all or a portion of the available wall signage allowance may be transferred to the canopy, subject to setback provisions.

(2) If the canopy is a freestanding structure, all or a portion of the available freestanding signage allowance may be transferred to the canopy, subject to setback provisions and height.

(d) Electronic messaging display (EMD) sign.

(1) EMD signs require a design review approval (see chapter 12 of this title) and are allowed only in the C-L, C-H, I-L, I-M, I-H and PUD zone districts. An EMD sign in the C-L zone district is limited in hours of operation from 6:00 a.m. to 10:00 p.m.

(2) The area of the EMD shall not exceed 50 percent of a sign face.

(3) The EMD shall contain static messages only, changed only instantly or through dissolve or fade transitions, or with the use of other subtle transitions and frame effects that do not have the appearance of moving text or images, and which may otherwise not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design or pictorial segment of the sign, including the movement of any illumination or the flashing, scintillating or varying of light intensity.

(4) The displayed message shall not change more frequently than once per 30 seconds.

(5) The EMD shall have automatic dimmer software or solar sensors to control brightness for nighttime viewing. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare. Lighting from the message module shall not exceed 600 nits (candelas per square meter) between dusk and dawn as measured from the sign's face.

(6) Applications for sign permits containing an electronic display shall include the manufacturer's specifications and initial nit (candela per square meter) rating and the method of dimming.

(7) All existing electronic message displays that contain an electronic changeable copy module which does not comply with the provisions of this section shall be made to conform to the duration of copy provisions upon the effective date of the ordinance approving such provisions.

(8) Any premises that contains an outdoor electronic message display shall not be allowed any temporary signs (per section 24-1337).

(e) Freestanding and monument sign.

(1) Freestanding signs shall be permitted only if constructed with a supporting sign structure, the total width of which exceeds 25 percent of the width of the sign face. This provision applies to all freestanding signs that require a permit, except freestanding signs with less than two vertical feet of sign support, exposed poles or flag poles. Any change of copy to a legally conforming sign does not require compliance with this section.

(2) Maximum size, height and setback dimensions. Lot frontage, for the purposes of calculating freestanding sign allowance and placement, shall be determined as follows:

a. Lot frontage shall be the length of private property contiguous with a public street.

b. If a lot has more than one street frontage, such as with corner lots, up to two cumulative lot frontages along the lot sides adjacent to public streets may be used to determine the maximum number of signs.

c. Noncontiguous lot frontage is calculated separately.

(3) The maximum area of freestanding/monument signs shall be as follows:

a. In the H-A, C-D, R-MH, R-L, R-M and R-E zone districts, signs shall be in accordance with section 24-1335.

b. In the R-H, C-L zone districts and for uses by special review on any residential zoned property, the maximum area is as follows:

Setback	*Maximum Size (sq. ft.) per Sign Face*
Less than 50 ft.	33
51 ft. to 167 ft.	(Setback minus 50) plus 33
168 ft. or greater	150

c. In the C-H, I-L, I-M and I-H zone districts, the maximum area is as follows:

Setback	*Maximum Size (sq. ft.) per Sign* Face

Less than 50 ft.	50
51 ft. to 249 ft.	Equal to setback
250 ft. or greater	250

(4) The maximum height of freestanding signs shall be as follows:

Setback	*Maximum Size (sq. ft.) per Sign Face*
Less than 50 ft.	12
51 ft. to 99 ft.	(Setback minus 50) plus 12
100 ft. or greater	25

a. In the C-D, H-A, R-E, R-L, R-MH, R-M, R-H and C-L zone districts, the maximum height is six feet, unless otherwise noted in section 24-1335.

b. In the C-H, I-L, I-M and I-H zone districts, the maximum height is as follows:

(5) Signs attached to fences and freestanding walls, except those in section 24-1335, shall be regulated as a freestanding sign and shall count toward freestanding signage allowances.

(6) For properties with less than 200 feet of lot frontage, either of the following is permitted:

a. A freestanding sign may be used in lieu of the allowed wall signage, the sign will be allowed to comply fully to the freestanding sign size and height limits as listed in the charts above;

b. A combination of freestanding or wall signage is allowed where the sum of the percentage of each sign's size, as a portion of the total allowed, does not exceed 100 percent of maximum sign allowance for either category or sign. The percentage of wall signage shall be based on the total amount of wall signage allowed on the principal face of the building located closest to the freestanding sign. The percentage of freestanding sign shall be based on the maximum size of freestanding sign allowed, given the sign's setback from the centerline of the adjoining public right of-way (figure 24-42).

c. One freestanding sign is a permitted use on a site with a minimum of 200 feet of street right-of-way frontage; two freestanding signs are permitted with a minimum of 500 feet of contiguous street right-of-way linear frontage in the R-H, C-L, C-H, I-L, I-M and I-H zone districts.

[GRAPHIC - Figure 24-42. Transfer of Wall Signage to Freestanding Signage]

(7) Where two or more property owners share a common lot line, the property owners may combine lot frontage for the purpose of sharing a freestanding sign on or near the common lot line.

(f) Projecting wall sign.

(1) A projecting sign shall not be higher than the top of the wall or the bottom of the roof eave.

(2) A projecting sign must have eight feet clearance from grade and may not extend more than four feet from the building wall except where the sign is an integral part of an approved canopy or awning.

(3) A projecting sign is included in the total wall sign allowance.

(4) A projecting sign over public right-of-way must obtain a revocable sign permit.

(g) Wall signs.

(1) Signage allowance by zone district shall be calculated as follows:

Zone District	*Signage allowed per principal*	*For secondary building frontage, additional*

	Building frontage	*signage allowed per linear feet of building*
H-A, C-D, R-E, RMH, R-L and R-M	*N/A*	*N/A*
R-H	0.25 sq. ft.	N/A
C-L	1 sq. ft.	0.5 sq. ft.
C-H and I-L	1.5 sq. ft.	1 sq. ft
I-M and I-H	2 sq. ft.	1 sq. ft.

(2) The maximum area of each wall sign shall be calculated as below in this subsection.

a. H-A, C-D, R-E, R-MH, R-L and R-M shall be in accordance with section 24-1335.

b. R-H and C-L Zone Districts.

Setback	*Maximum Size (sq. ft.) per Sign Face*
Less than 50 ft.	40 ft.
51 ft. to 160 ft.	Setback minus 10 ft.
161 ft. or greater	150 ft.

c. C-H and I-L Zone Districts.

Setback	*Maximum Size (sq. ft.) per Sign Face*
Less than 50 ft.	60 ft.
51 ft. to 190 ft.	Setback plus 10 ft.
191 ft. or greater	200 ft.

d. I-M and I-H Zone Signs.

Setback	*Maximum Size (sq. ft.) per Sign Face*
Less than 50 ft.	90 ft.
51 ft. to 210 ft.	(Setback minus 50) plus 90 ft.
211 ft. or greater	250 ft.

(3) Wall signage shall comply with the following conditions:

a. *Parapet wall*. No wall sign may be attached to or displayed against any parapet wall that does not extend at least 75 percent of the perimeter of the roof enclosed by the parapet. No sign shall exceed the height of the parapet wall. This standard does not apply to existing building as of the date of the adoption of the ordinance from which this Development Code is derived.

b. *Roof line*. No wall sign may extend above the roof line of a building except as permitted on a parapet wall.

c. *Mechanical room*. No wall sign may be displayed on the wall of a mechanical room or penthouse or other such enclosed space which is not habitable by the occupants of the building.

d. *Sign depth or projection*. No sign, including any light box or other structural part, shall exceed a

depth of 20 inches.

(Code 1994, § 18.54.140; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.140, 5-5-2020)

Sec. 24-1339. Public, quasi-public and institutional uses (nonresidential uses in residential zone districts).

(a) Public/private schools. Public schools are encouraged to adhere to the same sign standards as private schools, which are those that are allowed in the R-H Zone District.

(b) All other public, quasi-public or intuitional signage shall comply with the standards of the R-H Zone District.

(Code 1994, § 18.54.150; Ord. No. 34, 2010, § 1, 10-19-2010)

Sec. 24-1340. Signs in planned unit development zoned districts.

(a) The provisions in this chapter shall be used to guide signage within planned unit development (PUD) requests.

(b) Proposed PUD development may include a specific sign plan which includes sign standards that address size, height, design, lighting, color, materials, location and method of construction of all signage planned within the PUD to ensure that all such signage is designed in a harmonious and compatible manner. Absent a specific sign plan, the city will apply sign standards closest to the zone district the PUD land uses represent. The city council may impose alternate standards relating to signage if it is determined that there are commensurate design trade-offs proposed for signage with a particular PUD, as provided in section 24-663(d), planned unit developments.

(Code 1994, § 18.54.160; Ord. No. 34, 2010, § 1, 10-19-2010)

Sec. 24-1341. Historic signs.

(a) Notwithstanding any other provisions of this chapter, an historic sign may be kept, used, owned, maintained and displayed subject to the following provisions:

(1) The sign has been designated as an historic landmark by the city historic preservation commission (HPC); and

(2) The sign is structurally safe or is capable of being made structurally safe while maintaining its historic character. All structural repairs and restoration of the sign to its original condition shall be made within 365 calendar days of designation of the sign as an historic landmark and shall be subject to approval by the HPC prior to any work commencing.

(b) All signs that have been designated as historic landmarks shall be exempt from section 24-1343 relating to abandoned signs if the sign continues to meet all of the requirements of this section.

(c) For the purposes of this section, if an historic sign has been moved from its original site, such sign shall no longer be considered an historic sign unless specifically so considered by the HPC. If such a sign is moved, a new sign permit under the provisions of section 24-1338 shall be required for the new location.

(d) Words, symbols or "ghost signs" that are painted, engraved or carved into a building and that no longer relate to the use or occupant of the building shall not be counted as signage.

(Code 1994, § 18.54.170; Ord. No. 34, 2010, § 1, 10-19-2010)

Sec. 24-1342. Nonconforming signs.

(a) A legal nonconforming sign or sign structure may continue to exist until one of the following conditions occurs:

(1) The sign has been abandoned and not reestablished for 90 consecutive days or longer.

(2) Other than for routine maintenance involving spot repainting, cleaning or light bulb replacement that does not make substantial improvements, if repairs involve nonconforming sign alterations other than allowed in section 24-1344, compliance with all provisions of this chapter shall be required.

(3) Changing the copy of an off-premises sign and nonconforming signs shall not be considered a change requiring compliance with this chapter unless there is a change to the size; a change, or removal of, a

support structure or frame, or a portion thereof, whether replacing such structure or frame or not, and/or a change in the orientation of the sign.

(b) Lawfully nonconforming signs which are nonconforming due to size are included in the total sign allowance for the property as follows:

(1) If the excess signage is in the wall sign the amount greater than the allowed is considered a transfer to the freestanding sign allowance and the freestanding sign allowance is thereby reduced proportionally.

(2) If the nonconforming sign is freestanding, no transfer is allowed to the wall.

(c) Two or more legal, nonconforming, freestanding signs on the same lot may be combined into one new legal nonconforming sign. In this event, the maximum size of this new sign shall be 125 percent of the maximum size specified in section 24-1338(d) for the particular location and type of sign. This provision shall be utilized only one time per property.

(d) The community development director may approve alternative compliance nonconforming sign proposals one time per property as long as the proposed alternative reduces all elements of the signage nonconformance, by at least 50 percent. This one-time provision may be used to address all nonconforming signs on the site, or for only one nonconforming sign type on the site.

(e) Temporary signs, window signs and dilapidated signs shall not be considered legal nonconforming signs.

(Code 1994, § 18.54.180; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.180, 5-5-2020)

Sec. 24-1343. Abandoned signs.

(a) A sign meeting the definition of abandoned under this chapter must be removed or covered upon determination of its abandonment.

(b) At such time that either a portion or all of a sign, sign frame, sign components or sign supporting structure are no longer in use for a period of 90 consecutive days, such sign frame, sign components or sign supporting structure shall be brought into conformance by removal or the placement of a new permitted conforming sign, components and structure.

(Code 1994, § 18.54.190; Ord. No. 34, 2010, § 1, 10-19-2010)

Sec. 24-1344. Sign construction and maintenance standards.

(a) All signs and all parts, portions and materials shall be manufactured, assembled and erected in compliance with all applicable state, federal and city regulations and the adopted building and electrical codes.

(b) All signs, including those signs not required to obtain a sign permit as provided in section 24-1331, shall be maintained and kept in good repair, and in conformance with the original sign permit. A sign that is maintained and kept in good repair shall meet the following criteria:

(1) All sign supports, braces, guy wires, anchors and related screening are kept in repair, in a proper state of preservation, including as may be required by section 24-1058(4).

(2) There is no evidence of deterioration, including chipped or peeling paint, rust, corrosion, fading, discoloration, broken or missing sign faces, text, logos, graphics or other elements of the sign.

(3) There are no missing, flickering or inoperative lights that create a perception of deterioration or abandonment of the sign.

(c) Where repairs involve a nonconforming sign, the provisions of section 24-1342 shall also apply.

(d) Any non-maintained sign shall be repaired or replaced within 15 calendar days following notification from the city. Noncompliance with such notice shall constitute a nuisance subject to enforcement actions.

(e) Signs, their structures and supports and related screening, shall be constructed of materials normally and typically intended to be used for such items.

(Code 1994, § 18.54.200; Ord. No. 34, 2010, § 1, 10-19-2010)

Sec. 24-1345. Alternative compliance.

(a) Conditions may exist where strict compliance is impractical or impossible, or where maximum achievement of the city's objectives can only be obtained through alternative compliance. It is not the intent of alternative compliance to modify or reduce requirements of this sign code, but to provide equivalent standards in a creative way subject to approval under the provisions herein.

(b) Requests for alternative compliance may be accepted for any application to which the requirements of this chapter apply. A written request may be submitted to modify an individual sign allowance, which shall meet one or more of the following criteria:

(1) Topography, soil, vegetation or other site conditions are such that full compliance is impossible or impractical; or improved environmental quality would result from alternative compliance.

(2) Space limitations, unusually shaped lots and prevailing practices in the surrounding neighborhood, may justify alternative compliance for infill sites and for improvements and redevelopment in older neighborhoods.

(3) Safety considerations make alternative compliance necessary.

(4) The proposed alternative is aesthetically more complementary to the site, better fits into the context of the area, improves the overall architectural appeal of the area and/or meets or exceeds the design objectives as described in the city's comprehensive plan. Where there is a strong architectural theme established in an area, the proposed alternative shall be consistent with or complementary to that theme. In an existing area where there is no established theme, the proposed alternative shall provide an architectural theme that is consistent with the comprehensive plan and improves the quality of development in the area.

(c) Application for alternative compliance shall include the following information:

(1) Written description of the conditions provided in subsection (b) of this section, which apply to the subject property;

(2) The applicant shall submit a sign plan consisting of a written statement addressing the proposal and the review criteria, along with dimensioned graphic plans identifying the following items for all signs on the property:

a. Written and graphic illustration of the proposed alternative, including areas of departure from code standards;

b. Sign style, type, location, size (area) and height for wall and freestanding signs;

c. Materials and colors for all signs and support structures;

d. Sign illumination devices and brightness levels, if applicable.

(d) Upon receipt of a complete application as provided in subsection (c) of this section, the application will be evaluated administratively through the administrative review team, with the final decision made by community development director.

(e) If the community development director finds that the provisions in subsection (b) of this section are met, the director shall approve the request for alternative compliance in writing. If the community development director finds that the provisions in subsection (b) of this section have not been met, the community development director shall deny the request for alternative compliance and the applicant may appeal such decision in accordance with chapter 7 of this title.

(Code 1994, § 18.54.210; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.210, 5-5-2020)

Sec. 24-1346. Sign chart.

Zoning District	*Type of Sign Allowed*	*Max. total amount awning, wall*	*Max. Sign Face Area for Awning*	*Maximum Freestanding Sign Height*	*Maximum Size for Freestanding*	*Number of Freestanding Signs*

		and projecting wall signage allowed per linear foot of wall	*and Wall Signs*		*Signs*	
C-D, H-A, R-L, R-E, R-MH, R-M	See section 24-1335	See section 24-1335	See section 24-1335	See section 24-1335	See section 24-1335	See section 24-1335
R-H	Freestanding, wall and awning	0.25 sq. ft.	See sections 24-1338(b)—(g)	6 ft.	See subsection 24-1338(e)	1 sign where lot frontage is greater than or equal to 200 ft., but less than 500 ft.
C-L	Freestanding, wall and awning	1 sq. ft., plus an additional 0.5 sq. ft. (for secondary building frontage)	See sections 24-1338(a)—(f)	6 ft.	See subsection 24-1338(e)	2 signs where lot frontage is greater than 500 ft.
C-H, I-L	Freestanding, wall, projecting wall and awning	1.5 sq. ft., plus an additional 1 sq. ft. (for secondary building frontage)	See subsections 24-1338(a)--(f)	See subsection 24-1338(d)	See subsection 24-1338(d)	2 signs where lot frontage is greater than 500 ft.
I-M and I-H	Freestanding, well, projecting wall and awning	2 sq. ft., ply an additional 1 sq. ft. (for secondary building frontage)	See subsections 24-1338(a)--(f)	See subsection 24-1338(d)	See subsection 24-1338(d)	2 signs where lot frontage is greater than 500 ft.

*This chart summarizes key signage allowances; see specific code sections for code details and/or exceptions.

[GRAPHIC - Maximum Area Pre Sign Face - Freestanding and Projecting Wall Signs]

[GRAPHIC - Maximum Area Pre Sign Face - Awning and Wall Sign Chart]

[GRAPHIC - Maximum Freestanding Sign Height]

(Code 1994, § 18.54.220; Ord. No. 34, 2010, § 1, 10-19-2010; Ord. No. 11, 2020, exh. A, § 18.54.220, 5-5-2020)

Secs. 24-1347--24-1375. Reserved.

CHAPTER 18. OIL AND GAS OPERATIONS

Sec. 24-1376. Purpose and intent.

The purpose of this chapter is to protect and promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future residents of the city. It is the city's intent by enacting these regulations to facilitate the development of oil and gas resources within the city while mitigating land use conflicts between such development and existing as well as proposed land uses. It is recognized that, under state law, the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of oil and gas interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface oil and gas interests, subject to compliance with the provisions of these regulations and any other applicable statutory and regulatory requirements. The state has a recognized interest in fostering the efficient development, production and utilization of oil and gas resources and particularly in the prevention of waste and protection of the correlative rights of common source owners and producers to a fair and equitable share of production profits. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner and to have adverse land use impacts upon their property, associated with the development of the mineral estate, mitigated through compliance with these regulations. Local governments have a recognized, traditional authority and responsibility to regulate land use within their jurisdiction, including use for oil and gas drilling. These regulations are intended as an exercise of this land use authority. Should it be established by competent evidence that a proposed oil or gas facility cannot be operated in compliance with these regulations, land use approval for such a facility may be denied. Such denial may be appealed as provided for in chapter 7 of this title.

(Code 1994, § 18.56.010; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1377. General provisions.

(a) The provisions in this chapter shall apply to all oil and gas exploration and production operations proposed or located on surface property within the city limits.

(b) All oil and gas exploration and production operations shall require use by special review approval as provided in article III of chapter 5 of this title and should be referred to for further information on the use by special review process.

(c) Where provisions in this chapter are in conflict with other provisions of this Development Code, the more restrictive, or that provision which results in the higher standard, shall apply.

(d) Exceptions to city provisions of this chapter may be granted by the planning commission as part of the approval of the use by special review only if the owner or operator demonstrates by a preponderance of evidence that the exception or waiver is necessary to prevent waste or protect correlative rights and can provide equivalent mitigation measures for the standards waived. Decisions of the planning commission may be appealed to the city council as provided in chapter 7 of this title.

(Code 1994, § 18.56.020; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1378. Definitions.

(a) All terms used herein that are defined in the Act or in oil and gas conservation commission regulations and are not otherwise defined in subsection (b) of this section shall be defined as provided in the Act or in such regulations. All other words used herein shall be given their usual customary and accepted meaning unless otherwise provided in this title, and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in said oil and gas industry.

(b) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Oil and Gas Conservation Act of the State of Colorado.

Assembly building means any building or portion of building or structure used for the regular gathering of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement,

drinking, dining or awaiting transport.

Building unit means a building or structure intended for human occupancy. A dwelling unit, every guest room in a hotel/motel, every 5,000 square feet of building floor area in commercial facilities and every 15,000 square feet of building floor area in warehouses or other similar storage facilities is equal to one building unit.

Commission or OGCC means the oil and gas conservation commission of the State of Colorado.

Day means a period of 24 consecutive hours.

Director means director of the oil and gas conservation commission of the State of Colorado.

Educational facility means any building used for legally allowed educational purposes for more than 12 hours per week for more than six persons. This includes any building or portion of building used for licensed daycare purposes for more than six persons.

High-density area shall be determined at the time the well is permitted on a well-by-well basis, by calculating the number of occupied building units within the 72-acre area defined by a 1,000-foot radius from the wellhead or production facility and means any tract of land which meets one of the following:

(1) Thirty-six or more actual or platted building units are within a 1,000-foot radius, or 18 or more building units are within any semi-circle of the 1,000-foot radius, at an average density of one building unit per two acres. If platted building units are used to determine density, then 50 percent of said platted units shall have building units under construction or constructed;

(2) An educational facility, assembly building, hospital, nursing home, board and care facility or jail is located within 1,000 feet of a wellhead or production facility; or

(3) If a designated outside activity area is within 1,000 feet of a wellhead or production facility, the area may become high density upon application and determination by the OGCC.

Hospital, nursing home, board and care facilities means buildings used for the licensed care of more than five in-patients or residents.

Inspector, city, means any person designated by the city manager or by the manager's designee, who shall have the authority to inspect a well site to determine compliance with this chapter and other applicable ordinances of the city.

Jail means those structures where the personal liberties of occupants are restrained, including, but not limited to, mental hospitals, mental sanitariums, prisons and reformatories.

Local government designee means the office designated to receive, on behalf of the local government, copies of all documents required to be filed with the local governmental designee pursuant to the rules of the OGCC.

Mineral owner means any person having title or right of ownership in subsurface oil and gas or leasehold interest therein.

Operating plan means a general plan which describes an oil and gas exploration and production facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operation, source of services/infrastructure, any mitigation plans and any other information related to regular functioning of that facility.

Operator means the person designated by the owner or lessee of the mineral rights as the operator and so identified in oil and gas conservation commission applications.

Production facilities means all storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flow lines and other equipment directly associated with oil wells, gas wells or injection wells.

Sidetracking means entering the same wellhead from the surface, but not necessarily following the same well bore, throughout its subsurface extent when deviation from such well bore is necessary to reach the objective depth because of an engineering problem.

Surface owner means any person having title or right of ownership in the surface estate of real property or leasehold interest therein.

Twinning means the drilling of a well adjacent to or near an existing well when the well cannot be drilled to the objective depth or produced due to an engineering problem, such as a collapsed casing or formation damage.

Well means an oil or gas well, a hole drilled for the purpose of producing oil or gas, or a well into which fluids are injected.

Well site means the areas which are directly disturbed during the drilling and subsequent operation of, or affected by production facilities directly associated with, any oil well, gas well or injection well.

Wellhead means the mouth of the well at which oil or gas is produced.

(Code 1994, § 18.56.030; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1379. Well and production facility setbacks.

(a) In all areas of the city, except for flow lines, transmission lines and power supply lines, and as provided for in subsection (b) of this section, the following shall apply:

(1) All wellheads, production tanks and/or associated on-site production equipment shall be set back at least 150 feet or 1 1/2 times the height of the derrick, whichever is greater, to any public road or private road built to city standards, platted right-of-way, built trail, parking lot, major aboveground utility or rail line.

(2) Low-density areas. At the time of initial drilling of the well, any wellhead or production tanks and/or associated on-site production equipment shall be located not less than 150 feet from any occupied building.

(3) High-density areas.

a. At the time of initial drilling of the well, the wellhead location shall be not less than 200 feet from any occupied building, and not less than 350 feet from any educational facility, assembly building, hospital, nursing home, board and care facility or jail in those areas which are high-density areas, as defined in section 24-1378, or outdoor activity area as designated by the state.

b. At the time of initial installation, production tanks and/or associated on-site production equipment shall be located not less than 200 feet from any occupied building and not less than 500 feet from an educational facility, assembly building, hospital, nursing home, board and care facility, jail or state-designated outdoor activity area. Said 500-foot setback shall be decreased to the maximum achievable setback if 500 feet would extend beyond the area on which the operator has a legal right to place or construct such facilities.

(b) Where compliance with OGCC spacing rules, regulations or orders makes it impossible for the applicant to meet the setbacks stipulated in subsection (a) of this section, the applicant may not be required to fully meet the above described setbacks. Approval must first be obtained from the OGCC before the applicant may seek relief from the city. The applicant shall, however, meet the setbacks to the maximum extent possible within the OGCC spacing regulations and may be required to implement special mitigation measures as described herein.

(c) If the OGCC approves a waiver as provided for in subsection (b) of this section, the city may attach conditions, provided that such conditions can provide equivalent mitigation measures for the standards waived.

(Code 1994, § 18.56.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 4, 2006, § 1, 1-17-2006; Ord. No. 04, 2008, § 5, 2-5-2008)

Sec. 24-1380. Floodplain restrictions.

The well and tank battery shall comply with all applicable federal, state and local laws and regulations when located in a floodway or a 100-year floodplain area.

(1) All equipment at production sites located within a 100-year floodplain shall be anchored as necessary to prevent flotation, lateral movement or collapse or shall be surrounded by a berm with a top elevation at least one foot above the level of a 100-year flood.

(2) Any activity or equipment at any well site within a 100-year floodplain shall comply with the Federal Emergency Management Act and shall not endanger the eligibility of residents of the city to obtain federal flood insurance.

(Code 1994, § 18.56.050; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1381. Disposal of drilling mud and exploration and production waste.

All exploration and production waste, including drilling mud or other drilling fluids, shall be stored, handled, transported, treated, recycled or disposed of in accordance with OGCC regulations, to prevent any significant adverse environmental impact on air, water, soil or biological resources.

(Code 1994, § 18.56.060; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1382. Seismic operations.

All persons shall comply with all commission rules with respect to seismic operations. Seismic operations shall occur within the city only between the hours of 7:00 a.m. and 7:00 p.m. In addition, the owner or operator shall provide a notice of intent to conduct seismic exploration at least seven days prior to commencement of the data recording operations to the community development director and the fire chief. Said notice shall include the following:

(1) Method of exploration;

(2) Map showing the proposed seismic lines, at a scale at least one-half inch to the mile;

(3) Name and permanent address of the seismic contractor; and

(4) The name, address and telephone number of the seismic contractor's local representative.

(Code 1994, § 18.56.070; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1383. Signage.

The well and tank battery owner or operator shall comply with all OGCC rules with respect to signage. In addition, the owner or operator shall maintain all signs in readable condition. Signs shall comply with chapter 17 of this title, and the uniform fire code, as adopted by the city, except when any variations from these codes are required by OGCC regulations.

(Code 1994, § 18.56.080; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1384. Access roads.

All roads used to access the tank battery and wellhead shall be constructed to accommodate local emergency vehicle access requirements and be maintained in a reasonable condition according to the following standards:

(1) Tank battery access roads. Access roads to tank batteries shall, at a minimum, be:

a. A graded gravel roadway at last 20 feet wide and with a minimum unobstructed overhead clearance of 13 feet six inches, having a prepared subgrade and an aggregate base course surface a minimum of six inches thick compacted to a minimum density of 95 percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures approved by the public works department. The aggregate material, at a minimum, shall meet the requirements for Class 6, Aggregate Base Course, as specified in the state department of transportation's Standard Specifications for Road and Bridge Construction, latest edition. This standard may be waived by the public works department and the fire chief for good cause and if the spirit and intent of this section are otherwise met.

b. Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways (i.e., roadside swells, gulches, rivers, creeks, etc.) by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval of the public works department.

c. Maintained so as to provide a passable roadway meeting the requirements of subsection (1)a of this section at all times.

(2) Wellhead access roads. Access roads to wellheads shall, at a minimum, be:

a. A graded dirt roadway at least 20 feet wide and with a minimum unobstructed overhead clearance of 13 feet, six inches, compacted to a minimum density of 95 percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures

approved by the public works department.

b. Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways (i.e., roadside swells, gulches, rivers, creeks, etc.) by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval of the public works department.

c. Maintained so as to provide a passable roadway meeting the requirements of subsection (2)a of this section at all times.

(3) If a well site falls within a high density area at the time of construction, all leasehold roads shall be constructed to accommodate local emergency vehicle access requirements and shall be maintained in a reasonable condition.

(4) All tank battery and wellhead access roads which intersect a paved city street or alley shall be paved to standards determined by the public works director from the existing paved roadway to the edge of the public right-of-way. Such standards shall protect public streets, sidewalks and curb and gutters. No mud or gravel, except minor and nominal amounts, shall be carried onto city streets or sidewalks. If mud or gravel is carried onto city streets or sidewalks, the owner or operator shall ensure that the streets are promptly cleaned. With the permission of the director of public works, the owner or operator may make arrangements for the public works department to clean the streets at the sole cost of the owner or operator.

(5) No public facilities such as curbs, gutters, pavement, water or sewer lines, etc., shall be damaged by vehicles entering or leaving the site. In the event of damage, the owner and operator, jointly and severally, shall indemnify the city for any reasonable repair costs.

(Code 1994, § 18.56.090; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1385. Compliance with environmental requirements.

(a) Operators shall conform to all current city, county, state and federal regulations and standards concerning air quality, water quality, odor and noise.

(b) All city sanitation and environmental standards shall be met.

(c) All surface trash, debris, scrap or discarded material connected with the operation of the property shall be removed from the premises or disposed of in a legal manner.

(Code 1994, § 18.56.100; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1386. Environmental impacts and mitigation.

(a) *Noise impacts and mitigation.*

(1) State law and regulations concerning noise abatement (C.R.S. title 25, art. 12) shall apply to all operations, together with applicable local government ordinances, rules or regulations.

(2) Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all buildings certified or intended for occupancy, to the extent practicable.

(3) Special mitigation measures.

a. Where a well or tank battery does not comply with the required setback or other portions of this chapter, or where the well or tank battery is in an area of particular noise sensitivity, such as hospitals, schools and churches, additional noise mitigation may be required. In determining noise mitigation, specific site characteristics shall be considered, including, but not limited to, the following:

1. Nature and proximity of adjacent development (design, location, type);

2. Prevailing weather patterns, including wind directions;

3. Vegetative cover on or adjacent to the site; and

4. Topography.

b. Based upon the specific site characteristics set forth above, nature of the proposed activity and its

proximity to surrounding development and type and intensity of the noise emitted, additional noise abatement measures may be required. The level of required mitigation may increase with the proximity of the well and well site to existing residences and platted subdivision lots and/or the level of noise emitted by the well and well site. One or more of the following additional noise abatement measures may be required:

1. Acoustically insulated housing or cover enclosing the motor, engine or compressor, or other noise mitigation techniques;
2. Vegetative screen consisting of trees and shrubs;
3. Solid wall or fence of acoustically insulating material surrounding all or part of the facility;
4. Noise management plan identifying and limiting hours of maximum noise emissions, type, frequency and level of noise to be emitted and proposed mitigation measures;
5. Lowering the level of pumps or tank battery; and
6. Requirements for electric motors only.

(b) *Visual impacts and mitigation*.

(1) To the maximum extent practical, oil and gas facilities shall be located away from prominent natural features such as distinctive rock and landforms, river crossings and other landmarks.

(2) To the maximum extent practical, oil and gas facilities shall be located to avoid crossing hills and ridges or silhouetting.

(3) To the maximum extent practical, the applicant shall use structures of minimal size to satisfy present and future functional requirements.

(4) At all times, the applicant shall minimize the removal of existing vegetation.

(5) To the maximum extent practical, the applicant shall locate facilities at the base of slopes to provide a background of topography and/or natural cover.

(6) The applicant shall replace earth adjacent to water crossings at slopes at an angle which ensures stability for the soil type of the site, to minimize erosion.

(7) The applicant shall align access roads to follow existing grades and minimize cuts and fills.

(8) Facilities shall be painted as follows:

a. Uniform, noncontrasting, nonreflective color tones, similar to Munsell Soil Color Coding System.

b. Color matched to land, not sky, slightly darker than adjacent landscape.

c. Exposed concrete colored to match soil color.

(9) Storage tanks and other facilities shall be kept clean and well-painted and otherwise properly maintained, so that signs are legible and all flammable material removed from the site.

(10) Where a well or tank battery does not comply with the required setback or other portions of this chapter, or in areas of increased visual sensitivity determined by the city, the applicant shall submit a visual mitigation plan which shall include, but not be limited to, one or more of the following standards:

a. Exterior lighting shall be directed away from residential areas or shielded from said areas to eliminate glare.

b. Construction of buildings or other enclosures may be required where facilities create noise and visual impacts which cannot be mitigated because of proximity, density and/or intensity of adjacent residential land use.

(11) One or more of the following landscaping practices may be required, where practical, on a site specific basis:

a. Establishment and proper maintenance of adequate ground covers, shrubs and trees.

b. Shaping cuts and fills to appear as natural forms.

c. Cutting rock areas to create irregular forms.

d. Designing the facility to utilize natural screens.

e. Construction of fences or walls, such as woven wood or rock, for use with or instead of landscaping.

(c) *Safety impacts and mitigation.*

(1) Adequate precautions shall be taken and necessary wellhead safety devices used at all times during the drilling, completion, recompletion, reworking, production, repair and maintenance of the well.

(2) Adequate fire-fighting apparatus and supplies, approved by the fire authority or appropriate fire district, shall be maintained on the drilling site at all times during drilling, completion and repair operations. All machinery, equipment and installations on all drilling sites within the city limits shall conform with such requirements as may be issued by the fire authority or appropriate fire district.

(3) Any well located less than 350 feet from an occupied building or in high density areas shall be equipped with blowout preventers during drilling.

(d) *Wildlife impacts and mitigation.*

(1) When one or more wells or tank batteries are located within sensitive areas as identified on the city's areas of ecological significance map, the applicant shall consult with the division of wildlife and the city to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures.

(2) In lieu of a site specific mitigation review for each well and well site, the applicant may submit to the community development director a multi-site plan addressing cumulative impacts to wildlife from the estimated total number of facilities planned in the same area and including areas within the long-range expected growth area, if at least one proposed well site is in the city.

(Code 1994, § 18.56.110; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1387. Recordation of flow lines.

All flow lines, including transmission and gathering systems, shall have the legal description of the location recorded with the county clerk and recorder within 30 days of completion of construction. Abandonment of any flow lines shall be recorded with the county clerk and recorder within 30 days after abandonment.

(Code 1994, § 18.56.120; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1388. Reclamation.

The operator shall comply with all commission rules with respect to site reclamation. The OGCC drill site reclamation notice shall be filed with the city at the same time it is sent to the surface owner.

(Code 1994, § 18.56.130; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1389. Abandonment and plugging of wells.

(a) The operator shall comply with all OGCC rules with respect to abandonment and plugging of wells.

(b) Operators of wells which are to be abandoned upon the completion of drilling and not be put into production shall notify the fire authority not less than two hours prior to commencing plugging operations.

(c) Operators of formerly producing wells shall notify the fire authority not less than two working days prior to removing production equipment or commencing plugging operations.

(d) The operator shall provide copies of all OGCC plugging and abandonment reports to the city at the same time they are filed with the OGCC.

(Code 1994, § 18.56.140; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1390. Operations in high density areas.

In addition to setbacks as required in section 24-1379(a)(2), the following provisions shall apply to high density areas:

(1) At the time of initial installation, if a well site falls within a high-density area, all pumps, pits, wellheads and production facilities shall be adequately fenced to restrict access by unauthorized persons. For security purposes, all such facilities and equipment used in the operation of a completed well shall be surrounded by a fence six feet in height, of noncombustible material and which includes a gate which shall be locked.

(2) Any material not in use that might constitute a fire hazard shall be placed a minimum of 25 feet from the wellhead, tanks and separator. Within 90 days after a well is plugged and abandoned, the well site shall be cleared of all nonessential equipment.

(3) Adequate blowout prevention equipment shall be provided for drilling operations and well servicing operations.

(4) The operator shall identify the location of plugged and abandoned wells with a permanent monument which shall include the well number and date of plugging inscribed on the monument.

(5) Where possible, operators shall provide for the development of multiple reservoirs by drilling on existing pads or by multiple completions or commingling in existing well bores.

(Code 1994, § 18.56.150; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1391. Building permits.

Building permits shall be obtained as required by the city's adopted building and fire codes and all other applicable codes and regulations then in effect.

(Code 1994, § 18.56.160; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1392. Requirements and procedures.

(a) Within all zone districts, it shall be unlawful for any person to drill a well, reactivate a plugged or abandoned well, or perform initial installation of accessory equipment or pumping systems unless a use by special review permit has first been granted by the city in accordance with the procedures in article III of chapter 5 of this title and those prescribed herein. The initial use by special review permit shall allow any twinning, sidetracking, deepening, recompleting or reworking of a well and relocation of accessory equipment or gathering and transmission lines so long as all applicable regulations of this jurisdiction and the state are met. If any twinning, sidetracking, deepening, recompleting or reworking of a well, or relocation of accessory equipment or gathering and transmission lines occurs, then the operator shall submit a revised site plan to the city depicting any changes from the approved special review permit. After review of the revised site plan, the city shall issue a notice to proceed as provided in section 24-1395.

(b) In recognition of the potential impacts associated with oil and gas drilling and well operation in an urban setting, all wells and accessory equipment and structures may be subject to inspections by the city at reasonable times to determine compliance with all applicable regulations, the uniform fire code, as adopted by the city, the uniform building code, as adopted by the city and other applicable city ordinances and regulations.

(Code 1994, § 18.56.170; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1393. Site plan application requirements.

(a) An application for a use by special review pursuant to this chapter and article III of chapter 5 of this title shall be filed with the community development department and shall include the following information:

(1) City application form and applicable fee.

(2) Copies of all information submitted to the OGCC. In addition, the following information, if not provided in the materials submitted to the OGCC, shall be provided to the city on one or more plats or maps, drawn to scale, showing the following information:

a. The proposed location of production site facilities or well site facilities associated with the well in the event production is established, if applicable. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within 500 feet of the well site shall be shown.

b. The location of layout, including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.

c. True north arrow, scale and plan legend.

d. The following information within a radius of 500 feet of the proposed well:

1. Existing surface improvements;

2. Existing utility easements and other rights-of-way of record, if any; and

3. Existing irrigation or drainage ditches, if any.

e. The applicant's drainage and erosion control plans for the well site or production site and the area immediately adjacent to such site, if applicable.

f. Location of access roads.

g. Well site or production site's existing lease boundaries, well name and number.

h. The names of abutting subdivisions or the names of owners of abutting, unplatted property within 500 feet of the well site or production site.

i. A title block showing the scale; date of preparation; and name, address and telephone number of the plan preparer, applicant and operator.

(3) Copies of the vicinity maps as submitted to the OGCC. In addition, the following information, if not provided in the vicinity map submitted to the OGCC, shall be provided to the city, including a three-mile radius around the proposed well, showing the following information:

a. Location of all existing water bodies and watercourses, including direction of water flow. This information shall be submitted on USGS 7 ½-minute series or assessor base maps which indicate topographic detail and show all existing water bodies and watercourses with a physically defined channel within a 400-foot radius of the proposed well.

b. Location of existing oil and gas wells as reflected in OGCC records. This information shall be submitted on a map and shall include any and all wells within a 1,000-foot radius of the proposed location for the well.

c. Location of drill site and access from one or more public roads.

d. Surface and mineral lease ownership within 200 feet of the wellhead and within 400 feet of the wellhead in high-density areas.

(4) Application requirements for narrative. In addition to the site plans and vicinity maps required in subsections (a)(2) and (3) of this section, the application shall include the following:

a. The operator's and surface owner's names and addresses, copies of any required OGCC Form 2 and designation of agent, if applicable.

b. An operating plan.

c. A list of all permits or approvals obtained or yet to be obtained from local, state or federal agencies other than OGCC.

d. An emergency response plan that is mutually acceptable to the operator and the fire authority or appropriate fire district that includes a list of local telephone number of public and private entities and individuals to be notified in the event of an emergency, the location of the well and provisions for access by emergency response entities.

e. A plan for minimizing negative impacts, including, but not limited to, noise and vibration levels, air and water quality, odor levels, visual impacts, wildlife impacts, waste disposal and public safety.

f. A fire protection plan that is mutually acceptable to the operator and the fire authority or appropriate fire district that includes planned actions for possible emergency events and any other pertinent information. Prior to the application to the city, a proposed fire protection plan and emergency

response plan shall be submitted to and reviewed by the fire authority or appropriate fire district.

(b) The process whereby a use by special review request shall be considered by the city shall follow the procedure in article III of chapter 5 of this title.

(Code 1994, § 18.56.180; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1394. Application review criteria.

The planning commission shall approve an application for a use by special review for a well site if the application submitted by the applicant conforms to the following requirements:

(1) The site plans for a well site application comply with the requirements of section 24-1393(a)(2).

(2) The vicinity maps for a well site application comply with the requirements of section 24-1393(a)(3).

(3) The narrative for a well site application complies with the requirements of section 24-1393(a)(4).

(4) The well location and setbacks comply with section 24-1379.

(5) When applicable, compliance with the provisions for mitigation of environmental impacts as required in section 24-1386.

(6) When applicable, compliance with the provisions for floodplains or floodway required in section 24-1380.

(7) The use by special review for a well site is in compliance with the use by special review criteria in section 24-480.

(Code 1994, § 18.56.190; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 4, 2006, § 1, 1-17-2006)

Sec. 24-1395. Notice to proceed.

Prior to commencement of construction, drilling, redrilling or enhanced recovery operations for which a use by special review has been previously granted, a notice to proceed shall be obtained from the city. A copy of any necessary state or federal permit issued for the operation shall be provided to the city.

(Code 1994, § 18.56.200; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1396. Inspections.

(a) The operator of any producing oil or gas well within the city shall provide to the fire chief proof of insurance and bonding required by any city, county, state or federal law or regulation and certification of compliance with the conditions of this chapter and the uniform building and fire codes, as adopted by the city, annually.

(b) The holder or agent of the special review permit shall allow inspections by city personnel at any reasonable hour. Failure to allow inspections for more than ten days shall result in scheduling a special review permit revocation hearing before the planning commission. The planning commission's decision on a special review permit revocation based on failure to allow inspections shall be final.

(c) Any operator of any oil and gas well within the city shall remit to the city an annual inspection fee to cover the costs which the city incurs for conducting the inspections of oil and gas wells. The fee shall be determined annually by the city manager or manager's designee and shall be based solely on actual costs incurred by the city for inspections. This fee shall be paid not later than February 1 of the year following that for which the fee is due. Wells which have been plugged and abandoned are exempt from this fee.

(Code 1994, § 18.56.210; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1397. Violation and enforcement.

(a) It shall be unlawful to construct, drill, install or cause to be constructed or installed any oil and gas facility within the city unless approval has been granted by the city pursuant to this title. The unlawful drilling or redrilling of any well or the production therefrom shall constitute a code ~~infraction~~ violation. The city shall have the right to abate the ~~infraction~~ violation at the sole reasonable expense of the operator ~~of the infraction~~ by any means to include, but not be limited to:

(1) Injunctive or other civil remedy.

(2) A stop-work order by the community development director.

(3) Removal of the nuisance by city personnel or city contractors.

(b) Any person, firm, corporation or legal entity that constructs, installs or uses, or which causes to be constructed, installed or used, any oil and gas well or well site in violation of any provision of this chapter shall be subject to the sanctions ~~for code infractions~~ contained in chapter 10 of title 1 of this Code and any other sanctions permitted under law.

(Code 1994, § 18.56.220; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 2006, § 2, 10-17-2006)

Secs. 24-1398--24-1417. Reserved.

CHAPTER 19. NONCONFORMING USES, BUILDINGS AND STRUCTURES

Sec. 24-1418. Purpose and intent.

Within the jurisdiction of this Development Code are lots, structures, buildings, uses and characteristics of uses which were lawful when established, but which could not be established under current provisions. Such nonconformities may be created at the effective date of the ordinance codified in this Development Code, or as a result of subsequent amendments which may be incorporated into this Development Code and may include such nonconformities as land uses, setbacks or landscaping. It is the intent of this chapter to describe the conditions under which legal nonconforming uses, buildings and structures may continue.

(Code 1994, § 18.58.010; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1419. Application.

(a) This chapter shall apply to any use of land, building or structure which does not conform to all applicable provisions of this Development Code for the district in which such use, building or structure is located.

(b) A nonconforming use may be continued, and a nonconforming building or structure may continue to be occupied except as may otherwise be provided for in this chapter.

(c) The use of land or a structure or building which was in violation of the zoning regulations prior to the effective date of the ordinance from which this title is derived shall be considered a violation, which violation shall be ~~deemed~~ a code ~~infraction and shall be~~ violation subject to the sanctions as provided in chapter 10 of title 1 of this Code.

(Code 1994, § 18.58.020; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 2006, § 2, 10-17-2006)

Sec. 24-1420. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amortization means the prohibition and removal of a nonconforming use after the expiration of an amortization period.

Amortization period means a reasonable period of time to recoup a return on the investment in an animal confinement use, but which in no event shall exceed nine years from the effective date of the ordinance codified in this Development Code, or from the date the use became nonconforming, whichever is later.

Animal confinement use means a place for confinement of livestock for the purposes of commercial food production and where feeding of the livestock is other than grazing and where the capacity at any one time is greater than permitted on the animal unit equivalency chart for the zoning district in which it is located. Such animal confinement uses may include dairies, feedlots, poultry and swine production facilities.

Animal unit means a unit of measurement used to determine the animal capacity of a particular site or parcel of land and to establish an equivalency for various species of livestock. The animal unit capacity is determined by multiplying the number of animals of each species by the appropriate equivalency factor from the table below and summing the resulting totals for all animal species contained on a site or parcel of land. The number of animals allowed per acre on a site or parcel of land is based on area requirements for each species, and the resulting acreages are also summed. If the maximum number of permitted animal units as provided on the animal unit equivalency

chart is exceeded for a property that does not contain an animal confinement use as of the effective date of the ordinance codified in this Development Code, the property and use contained on said property shall be determined to be a nonconforming use and subject to the provisions in this chapter.

Animal Species	H-A Zone - max two animal units per acre Animal unit equivalents	Number of Animals	Max # of Animals per acre	Other Zones--max one animal unit per acre Animal unit Equivalents	Number of Animals	Max # of Animals per acre
Slaughter, feed and dairy cattle, bison, elk, llamas, horses, mules, burros, yaks, alpacas	1.0	1.0	2.0	1.0	1.0	1.0
Swine, butcher and breeding--over 55 lbs.	0.50	2.0	4.0	0.50	2.0	2.0
Sheep, lamb, goats	0.50	2.0	4.0	0.50	2.0	2.0
Turkeys	0.20	5.0	10.0	0.20	5.0	5.0
Chickens, broiler and layer; rabbits	0.10	10.0	20.0	0.10	10.0	10.0

(Young stock, less than 50 percent of adult weight, reduces the above equivalency factor by 1/2. "Per acre" refers to areas specifically devoted for animal use).

*This chart shall not be used in a cumulative fashion. For example, in the H-A Zone, there is a maximum of two animal units permitted per acre. These animal units may be derived from a combination of animals, but in no event shall it exceed the maximum of two animal units per acre.

Livestock means animals typically related to agricultural or farming uses, including, but not limited to, chickens, swine, sheep, goats, horses, cattle, yaks, alpacas and emus.

Nonconforming means any building, structure or use that does not conform to the regulations of this chapter, but which was lawfully constructed, established and/or occupied under the regulations in force at the time of construction or initial operation.

(Code 1994, § 18.58.030; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1421. Nonconforming uses.

(a) A use that was allowed by the Code in effect when it was established, but which is no longer permitted in the district in which it is located, shall be permitted to continue after it became nonconforming so long as it complies with all of the following requirements:

(1) A nonconforming use shall not be physically enlarged, intensified or extended, nor shall it displace a principal conforming use, except as provided in subsection (b) of this section.

(2) A nonconforming use shall not be moved to any other portion of a lot, building or structure.

(3) A structure that does not conform to the requirements of this Development Code shall not be erected in connection with a nonconforming use.

(4) A nonconforming use may be changed to another nonconforming use subject to a determination by the community development director that the new use does not constitute an increased impact, as determined

by the following criteria:

a. The parking meets current requirements for the new use and does not create any increased parking impact or new parking areas; and

b. The new use is not an expansion in size and the impact or effect upon the surrounding neighborhood is equal to or less than the existing impact or effect, including without limitation, glare, visual pollution, noise pollution, odor, air emissions, vehicular traffic, storage of equipment, materials and refuse, hours of operation, trips generated and number of employees and shall also conform to all other applicable provisions in this title.

(5) The decision of the community development director shall be considered final unless appealed by the applicant or property owner to the planning commission or to the city council under the provisions of chapter 7 of this title.

(6) If a lawful nonconforming use is reduced in intensity or abandoned for a continuous period of 12 consecutive months, the property may not thereafter be used except at that lower intensity or as a conforming use.

(7) For nonconforming mobile home communities, refer to chapter 12 of this title, design review performance standards.

(b) Single-family dwellings that are not in compliance with this Development Code may be enlarged or altered one time by no more than 25 percent of the building footprint, including attached garage area, as long as the base standard setbacks in the R-L District or the infill standards are met. In no event shall an existing nonconforming single-family dwelling in an industrial zoning district be removed form a lot or site and be replaced with another single-family dwelling, except as provided for in section 24-1426(b).

(Code 1994, § 18.58.040; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999)

Sec. 24-1422. Nonconforming sites, buildings and structures.

(a) A building or structure that was allowed by the Code in effect when it was established, but which is no longer permitted in the district in which it is located because it does not conform to existing height, setbacks, yard, coverage, area, architecture or signage requirements of the zoning district in which the land is located, or is on a site which is nonconforming, shall be permitted to continue so long as it complies with all of the following requirements:

(1) The nonconforming building or structure is not enlarged, moved or altered in a way that increases its nonconformity, except as provided in section 24-1421(b), but it may be altered to decrease its nonconformity.

(2) If a nonconforming building or structure or portion of a nonconforming building or structure is destroyed by any means to an extent of more than 50 percent of its replacement value, it cannot be reconstructed except in conformity with the provisions of this Development Code, except for single-family dwellings in the commercial and industrial zoning districts.

(3) On any nonconforming building or structure or portion of a building or structure containing a nonconforming use, ordinary repair is permitted if, in any consecutive 12-month period, the work does not affect 50 percent or more of the replacement value of the nonconforming building or structure and is needed to maintain the building or structure in conformance with building codes.

(b) Single-family dwellings which are within nonconforming buildings or structures may be enlarged or altered one time by no more than 25 percent of the building footprint, including attached garage area, as long as the base standard setbacks in the R-L District or the infill standards are met. In no event shall an existing nonconforming single-family dwelling in an industrial zoning district be removed from a lot or site and be replaced with another single-family dwelling, except as provided for in section 24-1426(b).

(c) If changes are proposed to nonconforming sites, buildings and structures, the community development director shall determine, after considering recommendations from the administrative review team, if the nonconforming feature or features of the building or structure will be worsened by the modifications in terms of the impact of the building or structure on the neighborhood.

(d) One-time expansions for single-family dwellings as provided in this chapter shall be processed as design review uses, shall meet all provisions of the infill area design standards, as applicable, and recordation of such expansion shall be made in the county clerk and recorder's office.

(Code 1994, § 18.58.050; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999; Ord. No. 4, 2006, § 1, 1-17-2006)

Sec. 24-1423. Nonconforming uses in nonconforming sites, buildings and structures.

Legal nonconforming buildings or structures which accommodate land uses which are legal nonconforming land uses under this Development Code may be repaired, remodeled or restored only if the total floor space devoted to a nonconforming use is not increased and if the outside dimensions of the structure, including the height dimension, are not increased, except for single-family dwellings, which may be enlarged or altered one time by no more than 25 percent of the building footprint, including attached garage area, as long as the base standard setbacks in the R-L District or the infill standards are met. In no event shall an existing nonconforming single-family dwelling in an industrial zoning district be removed from a lot or site and be replaced with another single-family dwelling, except as provided for in section 24-1426(b).

(Code 1994, § 18.58.055; Code 1994, § 18.58.055; Ord. No. 46, 1999, § 1, 11-2-1999)

Sec. 24-1424. Variances.

Variances to nonconforming buildings or structures shall be considered by the zoning board of appeals under the provisions of chapter 7 of this title.

(Code 1994, § 18.58.060; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1425. Abandonment or reduction of use.

If active and continuous operations of a nonconforming use are not carried on during a consecutive period of 12 months, the nonconforming use shall thereafter be occupied and used only for a conforming use.

(Code 1994, § 18.58.070; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1426. Restoration.

(a) A nonconforming building or structure, or a building or structure containing a nonconforming use which has been damaged by fire or other calamity may be restored to its condition at the time of destruction, provided that such work is started within six months of such calamity and completed within 12 months of the time the restoration is commenced, except that if restoration would affect 50 percent or more of the replacement value of the entire building or structure, the building or structure may be restored or rebuilt only if it and the land use it houses thereafter will conform with all respects to this title to the maximum extent feasible. The community development director may grant a six-month extension to the provisions herein if reasonable cause can be shown.

(b) Nonconforming single-family dwellings shall be exempt from section 24-1423 and subsection (a) of this section when reconstruction commences within nine months and is completed within 18 months from the date of calamity. The community development director may grant a six-month extension to the provisions herein, if reasonable cause can be shown.

(Code 1994, § 18.58.080; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 46, 1999, § 1, 11-2-1999)

Sec. 24-1427. Certificates of nonconforming use.

(a) All owners of legal nonconforming uses shall obtain a certificate of nonconforming use from the community development director prior to any development at the site of the purported nonconforming use. A certificate of nonconforming use is a document that verifies the legitimacy of such a use.

(b) Any owner of a legal nonconforming use may obtain a certificate of nonconforming use subject to the provisions of subsection (d) of this section.

(c) A certificate of nonconforming use shall be required prior to commencement of any construction activities related to the nonconforming use or the site on which a nonconforming use is situated.

(d) Upon completion of an application by the property owner and submittal of information substantiating

the nonconforming use, the community development director shall verify the nonconforming status of the use or property. Upon such verification, the director shall issue a certificate of nonconforming use to all known owners of the legal nonconforming use. The certificate of nonconforming use shall identify, in detail, the area and nature of the nonconformity.

(1) In accordance with the provisions of this section, no use of land, buildings or structures shall be made other than that specified on the certificate of nonconforming use unless such use shall be in conformance with the provisions of the zoning district in which the property is located.

(2) A copy of each certificate of nonconforming use shall be filed with the city and recorded in the county clerk and recorder's office.

(3) The burden of proof for establishing the date when the nonconforming situation was created shall be on the applicant or property owner. The applicant or property owner shall present clear and convincing information to support the claim of a legal nonconforming use.

(e) If the community development director determines that the use is not a legal nonconforming use, then the use shall either be brought into full compliance with the provisions of this title, or the use shall be abandoned and all operations ceased.

(f) The property owner may appeal the decision of the community development director on a nonconforming use to the planning commission and to the city council, according to the provisions in chapter 7 of this title.

(Code 1994, § 18.58.090; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1428. District changes.

Whenever the boundaries of a zoning district are changed to transfer an area from one zoning district to another of a different classification, the foregoing provisions shall also apply to any nonconforming use existing therein and to any use made nonconforming by such change.

(Code 1994, § 18.58.100; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1429. Procedural nonconformity.

Whenever a nonconformity occurs solely because a use has not been evaluated under a review procedure required by this title and the use is otherwise in conformance, such use shall be considered conforming. For example, a use which requires use by special review approval shall be considered conforming if it existed prior to the effective date of the ordinance from which this Development Code is derived and is in conformance in all other respects, only lacking the benefit of an otherwise required review process.

(Code 1994, § 18.58.110; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1430. Annexation of nonconforming uses, buildings and structures.

Lawfully established uses, buildings and structures which exist on property prior to annexation shall be evaluated by the community development director as to the degree of nonconformity which will be created upon annexation and zoning, as provided in section 24-580(d), regarding annexation.

(Code 1994, § 18.58.120; Ord. No. 27, 1998, § 1, 5-19-1998)

Sec. 24-1431. Amortization of nonconforming animal confinement uses.

(a) This section is intended to provide a mechanism for the removal of nonconforming animal confinement uses which are, by their nature, uses which create negative impacts on the community and which are not considered appropriate land uses for urbanized areas because of their impacts.

(b) These provisions shall apply to all existing, nonconforming animal confinement operations, as defined in section 24-1420, which are located within the city boundaries and which are within the established mid-range expected service area.

(c) Upon a request for annexation, application of these provisions to existing nonconforming animal confinement operations shall be evaluated and an amortization period shall be determined as provided herein and specified in an annexation agreement.

(d) Each animal confinement use shall have the number of years for each of the applicable criteria listed below to continue in operation and which shall not exceed a total of nine years from the effective date of the ordinance codified in this Development Code, or from the date the use became nonconforming, whichever is later. The following criteria shall be used to establish a reasonable amortization period for nonconforming animal confinement uses.

(1) Location of use and nature of surrounding area.

a. Area within a 500-foot radius of the site, exclusive of public rights-of-way, contains only agricultural-related uses (plus three years);

b. Area within a 500-foot radius of the site, exclusive of public rights-of-way, contains a mix of agricultural and non-agricultural-related uses (plus two years); or

c. Area within a 500-foot radius of the site, exclusive of public rights-of-way, contains only non-agricultural-related uses (plus one year).

(2) Nature and conduct of use.

a. Animal confinement operations are conducted indoors, in fully enclosed areas (plus three years);

b. Animal confinement operations are conducted both in indoor, fully enclosed areas and in outdoor areas which are not fully enclosed (plus two years); or

c. Animal confinement operations are always conducted outdoors in areas which are not fully enclosed (plus one year).

(3) Investment in land and use (includes land value and value of buildings, structures and equipment specifically related to and used in the animal confinement use, based on most current county assessor's records).

a. Total investment in land, buildings and structures, plus value of equipment related to animal confinement operation does not exceed $200,000.00 (plus one year); or

b. Total investment in land, buildings and structures, plus value of equipment related to animal confinement operation is between $200,001.00 and $500,000.00 (plus two years); or

c. Total investment in land, buildings and structures, plus value of equipment related to animal confinement operation is over $500,000.00 (plus three years).

(e) The amortization period for animal confinement uses shall be established by the city council within 120 days of the effective date of the ordinance codified in this Development Code, or from the date the use became nonconforming, whichever is later. The following information shall be required from the owner/operator of the animal confinement use to establish the amortization period and shall be provided within 60 days from the receipt of written notice from the community development director requesting such information:

(1) Scale drawing or map showing the existing use and all existing structures related to the use (including confinement areas, buildings, structures and equipment related to the use); and showing all existing land uses within a 500-foot radius of the site which contains an animal confinement use.

(2) Written description of the existing operation, including number and types of animals confined, length of confinement and type of confinement (i.e., indoor, in fully enclosed areas and/or outdoor areas which are not fully enclosed);

(3) Detailed, written description of investment in the land, buildings, structures and equipment related to and used in the animal confinement operation, based on most recent county assessor's records; and

(4) Any other information determined necessary by the community development director to conduct a comprehensive review of the application.

(f) Upon submittal of all information required in subsection (e) of this section, or refusal to do the same by the owner/operator, the community development director shall schedule a public hearing on the matter before the planning commission on the next open agenda. Notice given for the public hearing shall be as provided for in article II of chapter 5 of this title.

(g) The community development director shall prepare a staff report which shall be presented to the planning commission. In making a recommendation on an amortization period, the commission shall consider the staff report and recommendation, all comments received from the owner/operator and the public, and shall consider the following:

(1) Criteria in subsection (d) of this section; and

(2) Unique or special circumstances which may be related to the particular request.

The planning commission recommendation shall be in the form of minutes of the meeting, copies of which shall be furnished to the owner/operator.

(h) The city council shall consider the amortization period at a public hearing with notice given for the hearing as provided for in article II of chapter 5 of this title. In making a decision on an amortization period, the council shall consider the staff report and planning commission recommendation and all comments received from the owner/operator and the public. The council shall also consider the following in making a decision to approve, approve with conditions, deny or table the request for future consideration:

(1) Criteria in subsection (d) of this section; and

(2) Unique or special circumstances which may be related to the particular request.

(i) The decision of the city council to establish an amortization period shall be final and shall be provided in writing to the owner/operator of the animal confinement use.

(Code 1994, § 18.58.130; Ord. No. 27, 1998, § 1, 5-19-1998)

Secs. 24-1432--24-1455. Reserved.

CHAPTER 20. WIRELESS COMMUNICATION FACILITIES (WCFS)

Sec. 24-1456. Purpose and intent.

In order to accommodate the communication need of residents and businesses while protecting the public, health, safety, and general welfare of the community, the city council finds that these regulations are necessary to:

(1) Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure in the city with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;

(2) Minimize adverse visual effects of WCFs through thoughtful design and siting, including, but not limited to, camouflage design techniques, appropriate and effective screening, and equipment undergrounding whenever possible;

(3) Encourage the location of towers in areas in a manner that minimizes the total number of towers needed throughout the community;

(4) Require the collocation of WCFs on new and existing sites wherever possible;

(5) Encourage owners and users of WCFs to locate them, to the extent possible, in areas where the adverse impact to the community is minimized;

(6) Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently;

(7) Effectively manage WCFs in the public right-of-way;

(8) Manage amateur radio facilities and over-the-air devices in the city.

(Ord. No. 32, 2018, exh. A, § 18.60.010, 8-7-2018)

Sec. 24-1457. Definitions.

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

in this section, except where the context clearly indicates a different meaning:

Alternative tower structure means manmade trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflages or conceals the presence of antennas or towers so as to make them architecturally compatible with the surrounding area pursuant to the requirements of this chapter. The term "alternative tower structure" also includes any antenna or antenna array attached to an alternative tower structure. A stand-alone pole in the right-of-way, streetlight, or traffic signal that accommodates small cell facilities is considered an alternative tower structure to the extent it meets the camouflage and concealment standards of this title.

Antenna means any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to, panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devices and configurations as well as exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of wireless communications signals.

Base station means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of the term "base station" does not include or encompass a tower, as defined herein, or any equipment associated with a tower. The term "base station" does include, without limitation:

(1) Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the city under this chapter, has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and

(2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including distributed antenna systems (DAS) and small-cell networks) that, at the time the relevant application is filed with the city under this title, has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of the term "base station" does not include any structure that, at the time the relevant application is filed with the city, does not support or house equipment described in subsections (1) and (2) of this definition.

Camouflage, concealment, or *camouflage design techniques* means the designing of a WCF to alter its appearance in such a manner as to substantially integrate it into surrounding building designs and/or natural settings to minimize the visual impacts of the facility on the surrounding uses and ensure the facility is compatible with the environment in which it is located. A WCF site utilizes camouflage design techniques when it is integrated as an architectural feature of an existing structure such as a cupola, or is integrated in an outdoor fixture such as a utility tower, or uses a design which mimics and is consistent with the nearby natural or architectural features (such as a clock tower) or is incorporated into (including without limitation, being attached to the exterior of such facilities and painted to match it) or replaces existing permitted facilities (including, without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.

Cell on wheels (COW) means a mobile cell site that consists of an antenna tower and electronic radio transceiver equipment on a truck or trailer, designed to boost reception as part of a larger cellular network and is temporary in nature.

Collocation means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Eligible facilities request means any request for modification of an existing tower or base station that is not a substantial change.

Eligible support structure means any tower or base station, as defined in this section, provided that it is existing at the time the relevant application is filed with the city under this chapter.

Existing tower or *base station* means a constructed tower or base station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time it was built; for example, a tower that exists as a legal, nonconforming use and was lawfully constructed is existing for the purposes of this definition.

Micro cell facility means a small wireless facility that is no larger than 24 inches in length, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, that is no more than 11 inches in length.

Monopole means a single, freestanding pole-type structure supporting one or more antennas.

Over-the-air-receiving device means an antenna used to receive video programming from direct broadcast satellites, broadband radio services and television broadcast stations, but shall not include antennas used for AM/FM radio, amateur (ham) radio, CB radio, digital audio radio services or antennas used as part of a hub to relay signals among multiple locations.

Pole-mounted small cell facility means a small cell facility with an antenna that is mounted and supported on an alternative tower structure, which includes a replacement pole.

Public property means real property owned or controlled by the city, excluding the public right-of-way.

Public right-of-way (ROW) means any public street, way, alley, sidewalk, median, parkway, or boulevard that is dedicated to public use.

Radio frequency emissions letter means a letter from the applicant certifying, all WCFs that are the subject of the application shall comply with federal standards for radio frequency emissions.

Replacement pole means an alternative tower structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or other similar structure of proportions and of equal height or such other height that would not constitute a substantial change to a pre-existing pole or structure in order to support a WCF or small cell facility or micro cell facility or to accommodate collocation, and replaces a pre-existing pole or structure.

Signal non-interference letter means a letter from the applicant certifying all WCFs that are the subject of the application shall be designed, sited and operated in accordance with applicable federal regulations addressing radio frequency interference.

Site for towers (other than towers in the right-of-way and eligible support structures) means the current boundaries of the leased or owned property surrounding the tower or eligible support structure and any access or utility easements currently related to the site. A site, for other alternative tower structures, base stations, micro cell facilities, and small cell facilities in the right-of-way, is further restricted to that area comprising the base of the structure and to other related accessory equipment already deployed on the ground.

Small cell facility means a WCF where each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and primary equipment enclosures are no larger than 17 cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch. Small cells may be attached to alternate tower structures, replacement pole, and base stations. The definition of the term "small cell facility" shall also include a micro cell or micro cell facility.

Substantial change means a modification that substantially changes the physical dimensions of an eligible support structure if, after the modification, the structure meets any of the following criteria:

(1) For towers, other than alternative tower structures or towers in the right-of-way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array, with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater;

(2) For towers, other than towers in the right-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the side of the structure by more than six feet;

(3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;

(4) For towers in the right-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other existing, individual ground cabinet associated with the structure;

(5) For any eligible support structure, it entails any excavation or deployment outside the current site;

(6) For any eligible support structure, it would defeat the concealment elements of the eligible support structure. For the purposes of this subsection, a change that would undermine the concealment elements of this structure will be considered to defeat the concealment elements of the structure; or

(7) For any eligible support structure, it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure equipment, unless the noncompliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in subsections (1), (2), and (3) of this definition. For the purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

Toll and *tolling* means to delay, suspend, or hold off on the imposition of a deadline, statute of limitations, or time limit.

Tower means any structure that is designed and constructed primarily built for the sole or primary purpose of supporting one or more any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term "tower" includes self-supporting lattice towers, guyed towers, monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like.

Transmission equipment means equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term "transmission equipment" includes equipment associated with wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Unreasonable interference means any use of the right-of-way that disrupts or interferes with its use by the city, the general public, or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

Wireless communications facility or *(WCF)* means a facility used to provide personal wireless services as defined at 47 USC section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of

the Code. A WCF includes an antenna or antennas, base stations, support equipment, alternative tower structures, and towers. The term "wireless communications facility" or "WCF" does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand-held radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this title.

(Ord. No. 32, 2018, exh. A, § 18.60.020, 8-7-2018)

Sec. 24-1458. Application.

(a) The requirements set forth in this section shall apply to all eligible facilities requests and WCF applications for base stations, alternative tower structures, towers, micro cells, and small cells as defined in section 24-1457 and further addressed herein.

(b) The requirements set forth in this section shall not apply to:

(1) Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive only antennas, provided that the requirement that the height be no more than the distance from the base of the antenna to the property line is met.

(2) Pre-existing WCFs. Any WCF for which a permit has been properly issued prior to June 17, 2018, shall not be required to meet the requirements of this chapter, other than the requirements of section 24-1459. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of section 24-1459. Notwithstanding the foregoing, any modifications qualifying as an eligible facility request shall be evaluated under this section.

(3) Miscellaneous antennas. Antennas used for reception of television, multi-channel video programming and radio such as over-the-air receiving device (OTARD) antennas, television broadcast band antennas, satellite earth station antennae and broadcast radio antennas, provided that any requirements related to accessory uses contained in title 18 of this Code and the requirement that the height be no more than the distance from the base to the property line are met. The community development department has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the city, modifications are necessary to comply with federal law.

(4) A WCF installed upon the declaration of a state of emergency by the federal, state, or local government, or a written determination of serving the general health, safety, and welfare of residents by the city, or reasonable ability to obtain such written determination within 72 hours.

(5) A temporary WCF installed for the purpose of providing sufficient coverage for a special event, subject to administrative approval by the city.

(Ord. No. 32, 2018, exh. A, § 18.60.030, 8-7-2018)

Sec. 24-1459. Operational standards.

(a) *Federal requirements*. All WCFs shall meet the current standards and regulations of the Federal Aviation Administration (FAA), the FCC and any other federal government agency with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Unless preempted by federal law, failure to meet such revised standards and regulations within 30 days of the city's determination of such failure shall constitute grounds for the removal of the WCF by the city or owner at the WCF owner's expense.

(b) *Permission to use public right-of-way or public property*. Prior to WCFs being sited in the ROW, the applicant shall have an executed license agreement with the city, granting a non-exclusive license to use the ROW. Attachment of WCFs on an existing traffic signal, streetlight pole, or similar structure shall require written evidence of a license, or other legal right or approval, to use such structure by its owner. The applicant shall remain the owner of, and solely responsible for, any WCF installed in the ROW. Prior to, or concurrently with, seeking land use approval for a WCF on public property, the applicant shall execute a lease agreement with the city.

(c) *Operation and maintenance*. To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with the standards contained in applicable local building and safety codes. If

upon inspection, the city concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring the WCF into compliance. Upon good cause shown by the owner and meeting reasonable safety considerations, the city's chief building official may extend such compliance period, not to exceed 90 days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the city may remove such WCF at the owner's expense.

(d) *Abandonment and removal*. After the WCF is constructed, if a WCF has not been in use for a period of three months, the owner of the WCF shall notify the city of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is contracted and is not operated for a continuous period of six months shall be considered abandoned. The city, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within 30 days of receipt of written notice form the city. If such WCF is not removed within said 30 days, the city may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired. Additionally, the city, in its sole discretion, may not approve any new WCF application until the applicant who is also the owner or operator of any such abandoned WCF has removed such WCF or payment for such removal has been made to the city.

(e) *Hazardous materials*. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.

(f) *Collocation*. No WCF owner or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the community development department, the owner or operator shall provide evidence explaining why collocation is not possible at a particular facility or site

(Ord. No. 32, 2018, exh. A, § 18.60.040, 8-7-2018)

Sec. 24-1460. Review procedures and requirements.

(a) No new WCF shall be constructed and no collocation or modification to any WCF may occur except after a written request from an applicant, reviewed and approved by the city in accordance with this chapter. All WCFs, except eligible facilities requests which are reviewed under subsection (a)(3) of this section, shall be reviewed pursuant to the following procedures.

(1) Review procedures for certain WCFs, including base stations, alternative tower structures, small cell facilities, and alternative tower structures within public rights-of-way. Applications for these WCF facilities shall be reviewed by the community development department for conformance to this section and using the design review procedures set forth in article III of chapter 5 of this title. For WCFs in the rights-of-way that are found to have a significant visual impact (i.e. proximity to historical sites), be incompatible with the structure or surrounding area, or not meet the intent of these provisions, the community development department may refer the application to planning commission for a use by special review determination.

(2) Review procedures for certain WCFs, including towers. Towers, other than those defined or excepted in subsection (a)(1) of this section, must apply for use by special review approval. These WCFs shall be reviewed for conformance using the procedures set forth in section 24-481. All applications for towers shall demonstrate that other alternative design options, such as using base stations or alternative tower structures, are not viable options as determined by the city.

(3) Review procedures for eligible facilities requests. Eligible facilities requests shall be considered a permitted use, subject to administrative review. The city shall prepare, and from time to time revise, and make publicly available, an application form which shall require submittal of information necessary for the city to consider whether an application is an eligible facilities request. Such required information shall include, without limitation, whether the project:

   a. Constitutes a substantial change;

   b. Violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety.

The application shall not require the applicant to demonstrate a need or business case for the proposed modification or collocation.

(b) Upon receipt of an application for an eligible facilities request pursuant to this section; the community development department shall review such application to determine whether the application so qualifies.

(c) Timeframe for review. Subject to the tolling provisions of subsubsection (d) of this section, within 60 calendar days of the date on which an applicant submits an application seeking approval under this section, the city shall approve the application unless it determines that the application is not covered by this subsection, or otherwise in nonconformance with applicable codes.

(d) Tolling of the timeframe for review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the city and the applicant, or in cases where the community development department determines that the application is incomplete:

(1) To toll the timeframe for incompleteness, the city must provide written notice to the applicant within 30 business days of receipt of the application, specifically delineating all missing documents or information required in the application;

(2) The timeframe for review begins running again the following business day after the applicant makes a supplemental written submission in response to the city's notice of incompleteness; and

(3) Following a supplemental submission, the city will notify the applicant within ten business days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subsection (d)(1) of this section. In the case of a second or subsequent notice of incompleteness, the city may not specify missing information or documents that were not delineated in the original notice of incompleteness.

(e) Failure to act. In the event the city fails to act on a request seeking approval for an eligible facilities request under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The request becomes effective when the applicant notifies the city in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

(f) Interaction with Telecommunications Act section 332(c)(7). If the city determines that the applicant's request is not an eligible facilities request as delineated in this chapter, the presumptively reasonable timeframe under section 332(c)(7) of the Telecommunications Act, as prescribed by the FCC's shot clock order, will begin to run from the issuance of the city's decision that the application is not a covered request. To the extent such information is necessary, the city may request additional information from the applicant to evaluate the application under Telecommunications Act section 332(c)(7) reviews.

(1) Review procedures for small cell facilities in the right-of-way. The city shall prepare, and from time to time revise, and make publicly available, an application form which shall require submittal of information necessary for the city to consider whether a project is eligible as a small cell facility in the right-of-way, meeting certain criteria. The application shall not require the applicant to demonstrate a need or business case for any proposed modification or collocation.

a. Upon receipt of an application for a small cell facility in the right-of-way pursuant to this section, the community development department shall review such application to determine whether the application so qualifies.

b. Timeframe for review. Subject to the tolling provisions of subsubsection d. below, within 60 calendar days of the date on which an applicant submits an application seeking approval under this section, the city shall approve the application unless it determines that the application is not covered by this subsection, or otherwise in nonconformance with applicable codes.

(g) Submittal requirements.

(1) In addition to submittal requirements of chapter 5 of this title, the following supplemental items are required for all WCFs applications.

a. Signal non-interference letter;

b. Radio frequency emissions letter;

c. Photo simulations showing before and after conditions;

d. Inventory of sites. Each applicant for a WCF shall provide to the community development department a narrative description and a map of the applicant's existing and currently proposed WCFs within the city, and outside of the city within one-half mile of its boundaries. In addition, the applicant shall inform the city generally of the areas in which it believes WCFs may need to be located within the next three years. The inventory list should identify the site name, address, and a general description of the facility (i.e., rooftop antennas and ground-mounted equipment). This provision is not intended to be a requirement that the applicant submit a business plan, proprietary information, or make commitments regarding locations of WCFs within the city. This information will be used to assist in the city's comprehensive planning process and promote collocation by identifying areas in which WCFs might be appropriately constructed for multiple users.

The community development department may share such information with other applicants applying for administrative approvals or conditional permits under this section or other organizations seeking to locate WCFs within the jurisdiction of the city; provided, however, that the community development department, is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

e. Abandonment and removal. Affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six months.

(h) Decision. Any decision to approve, approve with conditions, or deny an application for a WCF, shall be in writing and supported by substantial evidence in a written record. The applicant shall receive a copy of the decision.

(i) Compliance with applicable law. Notwithstanding the approval of an application for new WCFs or eligible facilities request, as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building, structural, electrical, and safety requirements as set forth in this Development Code and any other applicable laws or regulations. In addition, all WCF applications shall comply with the following:

(1) Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;

(2) Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;

(3) Be maintained in good working condition and to the standards established at the time of application approval; and

(4) Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten calendar days from the time of notification by the city or after discovery by the owner or operator of the site. Notwithstanding the foregoing, any graffiti on WCFs located in the public rights-of-way or on public property may be removed by the city at its discretion, and the owner and/or operator of the WCF shall pay all costs of such removal within 30 days after receipt of an invoice from the city.

(Ord. No. 32, 2018, exh. A, § 18.60.050, 8-7-2018)

Sec. 24-1461. Design standards.

(a) The requirements set forth in this section shall apply to the location and design of all WCFs governed by this chapter as specified below; provided, however, that the city may waive these requirements if it determines that the goals of this chapter are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding neighborhood and to maintain the character and appearance of the city, consistent with other provisions of this Development Code.

(1) *Camouflage/concealment*. All WCFs and any transmission equipment shall, to the extent possible, use

camouflage design techniques, including, but not limited to, the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF into the surrounding natural setting and built environment.

a. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic, natural, or aesthetically significant structures or areas, views, and/or community features or facilities). In such instances where WCFs are located in areas of high visibility, they shall (where possible) be designed (e.g., placed underground, depressed, or located behind earth berms) to minimize their profile.

b. The camouflage design may include the use of alternative tower structures should the community development department determine that such design meets the intent of this Development Code and the community is better served thereby.

c. All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and tower structures shall be constructed out of non-reflective materials (visible exterior surfaces only).

(2) *Collocation*. WCFs shall be designed and constructed to permit the facility to accommodate WCFs from at least two wireless service providers on the same WCF, to the extent it is reasonably feasible based upon construction, engineering and design standards, except where such collocation would materially compromise the design intent of the WCF, particularly visually.

(3) *Lighting*.

a. WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, it shall conform to lighting standards of section 24-1062.

b. All exterior lighting within equipment yards shall be mounted on poles or on the building wall below the height of the screen wall or fence.

(4) *Noise*. Noise generated on the site must not create any noise emitted at levels described in article II of chapter 7 of this title, except that a WCF owner or operator shall be permitted to exceed such noise standards for a reasonable period of time during repairs, not to exceed two hours without prior authorization from the city.

(5) *Landscaping requirements*.

a. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel.

b. WCFs, including small cells unless an exception is granted by the community development department, shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from rights-of-way and adjacent properties. All said landscape buffers shall adhere to buffer yard and screening standards of section 24-1148. Where the city has requested additional landscaping, the city may require irrigation requirements for the landscaping.

(6) *Screening requirements*.

a. All equipment, not located within the public right-of-way and not otherwise defined, shall be fully screened within a walled yard or placed in an enclosed building except in cases where a better design alternative exists. The yard shall be enclosed by a solid fence or wall of sufficient height to screen all miscellaneous equipment from view from the public right-of-way or adjacent properties and to provide security. Where fencing is required, it must adhere to fence and wall standards of section 24-1265.

b. All structures and improvements associated with the WCF shall be provided with adequate safety equipment and aesthetic treatments, including incorporating landscape screening noted in subsection (a)(5) of this section, to be visually compatible with uses in the surrounding area.

c. Roof-top mounted equipment shall be screened from off-site views to the extent practical by solid screen walls or the building's parapet.

(7) *WCFs adjacent to single-family residential uses*. WCFs shall be sited in a manner that evaluates the proximity of the facility relative to residential structures, neighborhoods, and residential zoning boundaries in order to minimize the visual impacts of WCFs on residential areas.

a. When placed near residential property, the WCF shall be placed in close proximity to a common property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent and nearby properties.

b. For a corner lot, the WCF may be placed adjacent to a common property line between adjoining residential properties, or on the corner formed by two intersecting streets.

c. If these siting requirements are not reasonably feasible from a construction, engineering, or design perspective, the applicant may submit a written statement to the community development department requesting the WCF be exempt from these requirements, and offer alternative locations reasonably meeting the intent of this section

(8) *Design requirements specific to various types of WCFs*.

a. Base stations.

1. If an antenna and/or accessory equipment is installed on a base station it shall be of a neutral, non-reflective color that is identical to, or closely compatible with, the color of the base station, or uses other camouflage or concealment design techniques so as to make the antenna and related facilities as visually unobtrusive as possible, including for example, without limitation, painting the antennas and accessory equipment to match the structure.

2. Ground mounted equipment shall be located in a manner necessary to address both public safety and aesthetic concerns. Where appropriate and to the extent it is reasonably feasible based upon construction, engineering and design standards, the community development department may require a flush-to-grade underground equipment vault.

b. Alternative tower structures, not in the public right-of-way, shall:

1. Be designed and constructed to look like a building, facility, structure, or other commonplace item, such as, but not limited to, a tree, public art, or clock tower, typically found in the area.

2. Be camouflaged/concealed consistent with other existing natural or manmade features in or near the location where the alternative tower structure will be located.

3. Be compatible with the surrounding area, including architecture, topography, and/or landscaped environment.

4. Be the minimum size needed to obtain coverage objectives. Height or size of the proposed alternative tower structure should be minimized as much as possible.

5. Be sited in a manner that is sensitive to the proximity of the facility to residential structures, neighborhoods, and residential zoning district boundaries.

6. Take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses.

c. Alternative tower structures, in the public right-of-way.

1. Such facilities shall be subject to the alternative tower structures standards of approval noted in subsection (8)b of this section, and subject to these additional design criteria.

2. Alternative tower structures and associated small cells, or micro cells may be deployed in the public right-of-way through the utilization of a streetlight pole, distribution lines, utility poles, traffic signal or similar structure.

3. To the extent that an alternative tower structure is a vertical structure located in the public right-of-way, its pole-mounted components shall be located on or within an existing utility pole serving another utility.

4. With respect to its pole components, such components shall be located on or within a new

utility pole where:

(i) Other utility distribution lines are aerial;

(ii) There are no reasonable alternatives;

(iii) The applicant is authorized to construct the new utility poles.

5. Alternative tower structures shall be consistent with the size and shape of similar pole-mounted equipment installed by communications companies on utility poles in the right-of-way near the proposed alternative tower structure.

6. Alternative tower structures shall be designed such that antenna installations on traffic signal standards are placed in a manner so that the size, appearance, and function of the signal will not be considerably or functionally altered.

7. Alternative tower structures shall be sized to minimize the negative aesthetic impacts to the right-of-way and adjacent properties.

8. Ground mounted equipment shall be located in a manner necessary to address both public safety and aesthetic concerns in the reasonable discretion of the community development department, and may, where appropriate and to the extent it is reasonably feasible based upon construction, engineering and design standards, require a flush-to-grade underground equipment vault.

9. Alternative tower structures shall not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way. The alternative tower structure must comply with the Americans with Disabilities Act and every other local, state, and federal law and regulation. No alternative tower structure may be located or maintained in a manner that causes unreasonable interference.

10. Alternative tower structures may not be more than five feet taller (as measured from the ground to the top of the pole) than any existing utility or traffic signal pole within a radius of 600 feet of the pole or structure. A new or freestanding alternative tower structure may not be higher than 30 feet. Alternative tower structures located on any existing or replacement pole may not be higher than the height of the existing pole.

11. Alternative tower structures in the right-of-way shall not exceed 18 inches in diameter.

12. Alternative tower structures shall be separated from any other wireless communication facility located in the right-of-way by a distance of at least 600 feet unless deployed as an existing base station in the right-of-way.

13. Collocations are strongly encouraged to limit the number of poles within the right-of-way to the extent reasonably feasible from a construction, design and engineering perspective.

14. Equipment enclosures shall be located out of view to the extent possible and shall comply with all applicable city criteria.

d. Towers.

1. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards and city design approval processes, be painted a neutral color so as to reduce visual obtrusiveness.

2. Wherever possible, towers shall locate to utilize existing landforms, vegetation, and structures to aid in screening the facility from view, or otherwise blending in with the surrounding built and natural environment.

3. Monopole support structures shall taper from the base to the tip.

4. All towers, excluding alternative tower structures in the right-of-way, shall be enclosed by security fencing or wall and shall also be equipped with an appropriate anti-climbing device.

5. Towers shall be subject to the height restrictions of each zoning district. Notwithstanding

anything in this chapter to the contrary, towers located in the right-of-way shall not exceed 30 feet in height.

e. Base stations.

1. Antennas and other proposed equipment shall be architecturally compatible with the base station and, when appropriate, colored or otherwise camouflaged to integrate with the base station to which they are attached.

2. Facilities mounted on a base station shall be installed as flush to the wall as technically practical. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be six feet.

f. Roof-mounted WCFs.

1. Roof-mounted WCFs may be approved only where an applicant sufficiently demonstrates that a wall mounted WCF is inadequate to provide service. By filing an application for a roof-mounted WCF, an applicant is certifying agreement to the city's determination that the height extensions described in subsections (8)f2 and 3 of this section are the maximum heights that will allow the WCF to be camouflaged, and that any additional increase in height will undermine the camouflage nature of the site.

2. Roof mounted antennas shall extend no more than ten feet above the parapet of any flat roof or ridge of a sloped roof to which they are attached.

3. Other roof mounted transmission equipment shall extend no more than ten feet above any parapet of a flat roof upon which they may be placed and shall not be permitted on a sloped roof.

4. All rooftop equipment and antennas must be adequately screened, per section 24-1058.

g. Related accessory equipment.

1. All buildings, shelter, cabinets, and other accessory components shall be grouped as closely together as technically possible.

2. The total footprint coverage area of the WCF's accessory equipment shall not exceed 350 square feet.

3. No related accessory equipment or accessory structure shall exceed 12 feet in height.

4. Related accessory equipment, including, but not limited to, remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the accessory equipment shall use camouflage design techniques.

(Ord. No. 32, 2018, exh. A, § 18.60.060, 8-7-2018)

Sec. 24-1462. Standards for approval.

(a) It is the intent of the city to provide for approval of WCFs administratively in cases where visual impacts are minimized, view corridors are protected, appropriate camouflage and concealment design techniques are employed to avoid adverse impacts on the surrounding area, and they are designed, maintained, and operated at all times to comply with the provisions of this chapter and all applicable laws. Notwithstanding the approval of an application for eligible facilities request, as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in the Code and any other applicable regulations.

(1) *Use by special review.* Any application for a WCF which does not comply with the provisions of this chapter may seek use by special review approval by submitting an application to planning commission.

(2) *Collocation and separation required.* No new towers, excepting small cell facilities in the right-of-way, shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the city that no existing WCFs can accommodate the needs that the applicant proposes to address with its tower

application, and sufficient separation of towers is achieved. Evidence may consist of the following:

a. No existing WCFs with a suitable height are located within the geographic area required to meet the applicant's engineering requirements;

b. Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF;

c. The applicant's proposed WCFs would cause electromagnetic interference with the existing WCFs or the existing WCF would cause interference with the applicant's proposed WCF; and

d. The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for collocation.

e. Towers over 90 feet in height shall not be located within one-quarter mile from any existing tower that is over 90 feet in height, unless the applicant has shown to the satisfaction of the city that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.

(3) *Setbacks*. The following minimum setback requirements shall apply to all WCFs, except for alternative tower structures in the right-of-way; provided, however, that the city may reduce standard setbacks requirements if the applicant demonstrates that the goals of this section can be met through performance options or through alternative compliance, or through a variance process. A tower shall meet the greater of the following minimum setbacks from all property lines:

a. The setback for a principal building within the applicable zoning district;

b. Twenty-five percent of the facility height, including WCFs and related accessory equipment; or

c. For sites within 100 feet of residential uses, facilities over 30 feet in height shall have a minimum setback from all adjacent residential property lines of one foot for every foot in height.

(Ord. No. 32, 2018, exh. A, § 18.60.070, 8-7-2018)

Secs. 24-1463--24-1480. Reserved.

CHAPTER 21. APPENDICES

Sec. 24-1481. Appendix 24-A - Redevelopment Map.

[GRAPHIC - APPENDIX ~~18-F~~ 24-A Redevelopment Map]

(Code 1994, app. 18-F; Ord. No. 27, 1998, § 1, 5-19-1998; Ord. No. 22, 2010, § 1, 6-15-2010)

Sec. 24-1482. Appendix 24-B - Development Code matrix.

Appendix ~~18-J~~ 24-B. Development Code Matrix

Refer to:	*Submittals*	*Annexation*	*Zoning*	*Permitted Use*	*Design Review*	*Use by Special Review*	*PUD*	*Overlay Districts*	*Mobile Homes*	*Variances, Appeals*	*Home Occupations*
~~18.16.030~~ 24-422	Site plan (basic, preliminary or final)	*		●	*	*	*		*	*	●
X	Vicinity map	*	*	●	*	*	*	*	*	*	●
X	Narrative	*	*	●	*	*	*	*	*	*	●
~~18.16.050~~ 24-424	Landscape plan			●	*	*	*	●	*	●	●
X	Land use application	*	*		*	*	*	*		●	●
X	Petition	*									
PWPM	Drainage plan			●	●	●	●		●		
PWPM	Traffic plan			●	●	●	●		●		
PWPM	Utility plan						●		*		
~~18.16.060~~ 24-425	Architectural elevations				*	*	*	●		●	
~~18.18.040~~ 24-452	Neighborhood notice		*		*	*	*	●		*	

X	Expanded narrative					*	*	●	*		●
~~18.40.110~~ 24-1062	Lighting plan			●	●	●	●	●	*		
	Plat	*					●				
X	Phasing plan					●	●	●	●		
	Development agreement	●	●				*		●		
X	Concept master plan		●		●		*	●	●		
X	Expanded landscape plan				*	*	*		●	●	
~~18.56.010~~ 24-1376	Oil and gas		●	●	●	●	●	●	●	●	
~~18.32.010~~ 24-660	Floodplain		●	●	●	●	●	●	●	●	
~~18.48.010~~ 24-1213	Areas of ecological significance		●	●	●	●	●	●	●	●	
~~18.56.010~~ 24-1376	Sign plan			●	●	●	*	●	●	●	
~~18.50.010~~ 24-1240	Hillside development plan		●	●	●	●	●	●	●	●	
	Legal description	*	*			*	*	*	*	*	

	Proof of Ownership	*	*			*	*	*			

Legend:

* Required

● Required, if applicable

X Attachment

PWPM = Public Work Project Manual

Reference numbers are to sections in the Development Code

(Code 1994, app. 18-J; Ord. No. 27, 1998, § 1, 5-19-1998)