

CHAPTER 7

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ARTICLE I

Administration and Abatement of Nuisances

Sec. 7-1. Definitions.

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

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

Grass means natural or planted growth of slender blade-like leaves, whether tended as a lawn or not.

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

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

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

Rubbish means any type of debris, trash, waste or rejected matter.

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

Weed means an unsightly, useless, troublesome or injurious growing herbaceous plant, and shall include all rank vegetable growth which exhales unpleasant and noxious odors and also high and rank vegetable growth that may conceal filthy deposits. (Ord. 539 §3, 1985; Ord. 645 §1, 1993)

Sec. 7-2. Common law nuisances.

Any nuisance which has been declared to be such by state courts or statutes or known as such at common law shall constitute a nuisance in the City, and any person causing or permitting any such nuisance shall be in violation of this Article. (Ord. 645 §1, 1993)

Sec. 7-3. Author of nuisances.

Any state of things prohibited by this Article shall be deemed to be a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed to be the author thereof. (Ord. 645 §1, 1993)

Sec. 7-4. Prohibition of nuisances.

It shall be unlawful for any person to maintain or permit any nuisance upon property under their his or her control within the limits of the City. As used herein, the word nuisance means those items hereafter specified as nuisances as well as every nuisance known to the common law and state statutes. (Prior code 9-526-4-1)

Sec. 7-5. Ascertaining nuisances.

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things shall, upon investigation, be considered by the City Administrator dangerous to the health of any of the inhabitants of the City, the same shall be considered a nuisance and shall be abated. (Ord. 645 §1, 1993)

Sec. 7-6. Constitution of separate offense.

In the case of any nuisance in or upon any street, alley or other public or private grounds, the author thereof shall be guilty of a separate offense for every period of forty-eight (48) hours' continuance thereof after notice given to abate the same. (Ord. 645 §1, 1993)

Sec. 7-7. Filing complaint.

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any person or police officer against any person who violates any provision of this Chapter. (Ord. 645 §1, 1993)

Sec. 7-8. Abatement of nuisance.

(a) In all cases where a nuisance shall be found in any building or upon any lot or other premises within the jurisdiction of the City, twenty-four (24) hours' notice shall be given, in writing, by a representative of the City to the owner of said premises or the occupant, lessee or person in possession of such premises, directing said person or entity to remove or abate such nuisance.

(b) Should any such nuisance, within or upon any public or private premises or as aforesaid, not be abated after the time period provided in the notice, the City Administrator may declare the same to be a nuisance and order the Chief of Police or Police Department to abate the nuisance immediately. The Chief of Police or Police Department shall have the authority to contract with such private persons or businesses as may be necessary to accomplish the abatement.

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

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

(e) Any expense incurred by the City in abating any nuisance shall be the liability of the owner, possessor, lessee or persons in control of the property on which the nuisance existed.

(f) If such amounts are not paid they shall become a lien against the real property upon which the nuisance existed and collectable as any tax would be through the County Treasurer's Office.

(g) Actions taken to abate nuisances and expenses incurred to abate nuisances shall be in addition to any prosecution for violation under these Sections. (Prior Code 9-526-4-3; Ord. 645 §1, 1993)

Sec. 7-9. Right of entry.

The City Administrator, Chief of Police or any other authorized person may enter upon or into any lot, house or other building or premises, with the proper respect of the occupant's constitutional rights, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action of liability on account thereof. (Ord. 645 §1, 1993)

Sec. 7-10. Cumulative remedies.

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge or conviction or violation of this Chapter in the Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist. (Ord. 645 §1, 1993)

Sec. 7-11. Concurrent remedies.

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under the municipal ordinances or any other provision of law. (Ord. 645 §1, 1993)

Sec. 7-12. Unlawful to obstruct abatement.

No person shall hinder, delay, obstruct or prevent any person attempting to discover, investigate or abate any nuisance as provided in these Sections. (Prior code 9-526-4-4)

Sec. 7-13. Violations and penalties.

Any person who shall violate any of the provisions of this Article shall be subject to the provisions of Section 1-72 of this Code. (Ord. 645 §1, 1993)

Secs. 7-14—7-30. Reserved.

ARTICLE II

Nuisances

Sec. 7-31. Accumulation to constitute nuisances.

Whenever there shall be in or upon any lot or piece of ground within the limits of the City any damaged merchandise, litter, trash, rubbish, garbage, wrecked car, inoperable cars or other wrecked vehicles or an accumulation of junk vehicles or junk of any type upon any private or public property, except in areas specifically zoned by the Zoning Ordinance of the City for said purposes or otherwise designated by the City for such purposes, the existence of any such material or items shall constitute a nuisance and shall be in violation of this Article. (Ord. 645 §1, 1993)

Sec. 7-32. Discharge of nauseous liquids.

No person shall, himself or herself or by another in the City, discharge out of or from or permit to flow from any house or place any foul or nauseous liquid or substance of any kind whatever into or upon any adjacent ground or lot or into any street, alley, public place or storm sewer. (Ord. 645 §1, 1993)

Sec. 7-33. Littering.

(a) It shall be unlawful for any person to throw or cause to be thrown or permit anyone in his or her employ to throw onto any public highway, thoroughfare, street, sidewalk or other place any kind of wire or scrap paper; any ashes, cans or glass of any character; old clothes; cloth of any kind; boots; shoes; hats; leather; hair; straw or hay; animal, vegetable or any other substance whatever; or any type of advertising matter; or to distribute or cause to be distributed or permit anyone in his or her employ to distribute any type of advertising matter in such a manner so as to cause the littering of any public highway, thoroughfare, street, sidewalk or public place. It shall further be unlawful for any person to sweep or cause to be swept, or cause anyone in his or her employ to sweep, from any store, office, warehouse, factory, hotel or any other building, occupied in whole or in part for commercial purposes, any refuse or dirt from such building onto any public highway, thoroughfare, street, sidewalk or other public place in the City.

(b) It shall be unlawful for any person to drive, move or propel a vehicle or to allow a vehicle owned by such person to be driven, moved or propelled in such a manner so as to cause to be spilled, dropped or jostled onto any street, highway, thoroughfare, sidewalk or other public place in the City any trash or rubbish; or to load or allow a vehicle to be so loaded so that the contents or any portion of the contents of such vehicle shall be spilled, dropped or jostled from such vehicle. Vehicles, including trucks loaded with or transporting any construction material, dirt, earth, clay, stone, macadam, brick, cement, sand, fuel, coal, wood, refuse or garbage, shall be loaded and the vehicle shall be in such condition so that none of the contents shall be loosed or spilled along the route which the vehicle is traveling.

(c) It shall be unlawful for any person operating a vehicle or being a passenger in any vehicle to throw or cause to be thrown from such vehicle onto any public highway, thoroughfare, street, sidewalk or other public place in the City any rubbish or trash, fruit or fruit particles, wrappers, containers, paper, paper products, bottles, glass, cans, hulls, handbills, confetti, shavings, shells,

stalks, animals, cloth or any other material of any kind which would render such public highway, thoroughfare, street, sidewalk or other public place unsightly, unsafe, unclean or unsanitary.

(d) The owner or person in control of any private property shall at all times maintain the premises free of litter. No person shall throw or deposit litter on any private property in the City, whether owned by such person or not; provided, however, that the owner or person in control of private property may maintain authorized private receptacles for the deposit of rubbish or other waste materials in such a manner that waste materials will be prevented from being carried or deposited onto any public or private property. (Ord. 645 §1, 1993)

Sec. 7-34. Use of property for dumping unlawful.

It shall be unlawful for any person or entity to use any land or premises within the City for the dumping or burial of any garbage, trash, litter, rubbish or combustible material of any kind. (Ord. 645 §1, 1993; Ord. 2008-901)

Sec. 7-35. Emission of odorous air contaminants and particulate air contaminants.

(a) For purposes of this Article, the following words shall have the meanings ascribed hereafter:

(1) 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.

(2) Particulate air contaminants shall mean visible, manmade or process-made dusts with an aerodynamic diameter not more than a nominal ten (10) microns (PM-10).

(3) Emission or emit shall mean to discharge, release or permit or cause the discharge or release of one (1) or more air contaminants into the atmosphere.

(4) Person shall mean 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 separately liable for causing air emissions above currently permitted levels.

(b) It shall be unlawful for any person to cause or permit the emission of odorous air contaminants or particulate air contaminants from any agricultural, commercial or industrial source such as to result in detectable odors and/or particulate emissions violations as defined above within the City (whether such person or source is within the City boundaries or not) which meet or exceed the following limits:

(1) In residential or commercial areas, it is a violation if odorous contaminants are detected there when one (1) volume of the odorous air has been diluted with seven (7) or more volumes of odor-free air, as measured by the Barnaby Chaney Scentometer or any other instrument or device designated by the Colorado Air Pollution Control Division, as so shown by a certificate from the Division, which said certificate shall be admitted in evidence as a self-authentication document. Equipment and personnel shall be certified and maintained in accordance with the manufacturer specifications and recommendations and the Colorado Air Pollution Control Division.

(2) In all other areas, it is a violation if odorous air contaminants are detected there when one (1) volume of the odorous air has been diluted with fourteen (14) parts or more volumes of odor-free air as measured by the Barnaby Chaney Scentometer or other designated instrument, by a trained observer.

(3) In all land use areas, 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 twenty percent (20%) opacity.

(4) It is not a violation in any land use area if the odorous air contaminant is not emitted off or away from the lot or parcel of property from which the emission originates.

(5) For purposes of this Section, any person is qualified to operate and give evidence concerning the operation and results of the Barnaby Chaney Scentometer (or other approved device) if he or she has been trained and certified in such use by a program operated or sanctioned by the State.

(c) Penalties and remedies.

(1) Every person convicted of a violation of any provision of this Section shall be punished as provided in Section 1-72 of this Code. Criminal prosecution hereunder shall not restrict or reduce any other remedies available at law. The City may elect civil remedies or may exercise its right to abatement of nuisances as provided in Section 7-8 of this Code. Any expense incurred by the City in seeking civil remedies for violation of this Section or incurred in abating a violation of this Section shall be the liability of the person or owner controlling the property on which the violation originated, and if such expenses are not paid by such person, then such amount shall become a lien against the real property from which the violation originated and collectible as any tax would be through the County Assessor's or Treasurer's Office.

(2) A Notice of Violation shall be issued by a Colorado Certified Opacity Evaluator and a compliance schedule approved by the Colorado Air Pollution Control Division initiated.

(3) Only one (1) Notice of Violation shall be issued per occurrence.

(d) Compliance checks.

(1) In order that any person or entity who wishes to check his or her compliance with this Section may have a reliable and economical method of doing so, the City shall provide, at reasonable times and with reasonable frequency, trained personnel and equipment to check compliance with the odor regulations of this Section at no charge to such person or entity.

(2) The City has the authority to order persons or entities to cease and desist if in violation.

(3) Any citizen may request a test for an alleged violation of particulate and/or odor emissions standards. If the persons or entities are in compliance with odor and/or permitted source standards, the person requesting the test shall be liable for costs of said tests. If persons or entities

are not in compliance with appropriate regulatory or permit controls, the cost of the tests shall be born by the violator. (Ord. 590, 1990; Ord. 645 §1, 1993)

Sec. 7-36. Nuisances enumerated.

(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, 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.

(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 the body of such animal forthwith to a distance of not less than five thousand (5,000) feet beyond the limits of the City. If such body shall not forthwith 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 Administrator to cause such body to be removed forthwith to a distance of not less than five thousand (5,000) feet beyond the limits of the City.

(f) Abate noisemakers. The use of music, noisemakers or loudspeakers on the streets of the City for the sale or vending of products, advertising or other commercial purposes is hereby declared to be a nuisance and is prohibited by the terms of this Chapter. The repeated or continuous causing of unreasonable noise which disturbs or would tend to disturb the peace of persons on property adjacent to the source of the noise is also declared to be a nuisance and is prohibited by the terms of this Chapter.

(g) Unlawful placement of appliances. No person shall keep or allow to be maintained any refrigerator, washer, dryer, freezer or other such appliance outside of an enclosed structure within the City. The intent of this Section is to prevent injury or death to children who may play in or around accessible appliances, and to prevent visual blight. Person as used in this Section includes all adult persons leasing, owning or controlling property. This Section does not prohibit the outside placement of locked beverage dispenser machines.

(h) Derelict vehicles. Vehicle(s) stored outside for more than five (5) days which are wrecked, dismantled, disabled (such as having windows broken out or boarded up) or inoperable or which would be unlawful or unsafe to operate on public streets are nuisances. As used in this Section, the term stored shall mean temporary or permanent parking or placement of a vehicle not in use as transportation. It shall be prima facie evidence that a vehicle is stored if it is wrecked, dismantled, disabled or inoperable or unsafe to operate on public streets. Abatement of such nuisances shall consist of (1) restoring the vehicle to lawful, safe, operating condition, or (2) storage within an enclosed structure, or (3) removal from the City; in accordance with Section 7-8.

(i) Removal of inoperable vehicle. It shall be unlawful for any person or his or her agent, either as owner, lessee, tenant or occupant of any lot or land within the City to park, store or deposit or permit to be parked, stored or deposited thereon an inoperable vehicle unless such vehicle is enclosed in a garage or other building.

(j) Vacant residential dwellings. All broken windows in each vacant dwelling shall be replaced by the owner or agent within seventy-two (72) hours after notice is given by the City Administrator or his or her appointed deputies.

(k) Vacant buildings. Any vacant buildings that constitute fire or safety hazards, which include the lack of window coverage or doors that are secured against entry, shall be declared to be a nuisance and are prohibited by the terms of this Chapter.

(l) Barking, yelping, howling or mewing by canine or feline. The keeping or harboring of any canine or feline which by loud, frequent or habitual barking, yelping, howling or mewing shall cause a serious annoyance to the neighborhood or to persons passing to and fro upon the streets or sidewalks is hereby declared a nuisance and is prohibited.

(m) 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.

(n) 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.

(o) Unauthorized posting of handbills, posters and placards. Any handbill, poster, placard or painted or printed matter which shall be stuck, posted or pasted upon any public or private house, store or other building or upon any fence, power pole, telephone pole or other structure without the permission of the owner, agent or occupant of the house shall be deemed a nuisance and may be abated as provided in this Chapter. (Prior code 9-526-4-2; Ord. 572, 1989; Ord. 628 §2, 1992; Ord. 645 §1, 1993; Ord. 98-719)

Secs. 7-37—7-50. Reserved.

ARTICLE III

Garbage and Refuse

Sec. 7-51. General, definitions.

For purposes of this Article, the following words shall have the meanings ascribed hereafter:

Compost pile shall mean an aerobic mixture consisting largely of decayed organic matter and used for fertilizing and conditioning land.

Contractor shall mean any garbage, trash, rubbish and debris disposal service, either public or private, that operates within the City.

Garbage shall mean any and all rejected or waste household food, offal, manure, swill, kitchen refuse and every refuse accumulation of animal, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking and dealing in or storing of food or meat, fish, fowl, fruit or vegetables.

Owner shall mean the record owner, as shown on the records of the County Tax Assessor, whether person, firm or corporation, and any agent, manager or representative of the record owner, and shall also include any occupant or person entitled to possession of any premises.

Residential property shall mean any separate living space within a building, which space is equipped with an independent and separate kitchen facility.

Trash, rubbish and debris shall mean all accumulation of waste, discarded or abandoned, useless items of personal property, or refuse, including rejected animal, mineral or vegetable matter, ashes, waste paper, cans, bottles, broken china, sawdust, leaves, grass cuttings, shrubbery and tree trimmings, shavings, packing material and other similar types of material, except garbage and manure. (Ord. 517 §1, 1984; Ord. 645 §1, 1993)

Sec. 7-52. Removal and disposal required.

No person shall deposit or place any garbage or rubbish in such a manner that the same endangers, or tends to endanger, the public health. No person having the occupancy, control or management of any premises shall cause or permit any garbage or rubbish to be accumulated thereon in such a manner as endangers, or tends to endanger, the public health. No person shall in any manner throw, place, scatter, deposit or bury any garbage or rubbish in or upon any public street, alley or other public place or upon his or her own premises or the premises of another. (Ord. 517 §3, 1984)

Sec. 7-53. Removal at City's expense; costs assessed.

In case of the failure of any owner, lessee or occupant of property to remove, cause to be removed or permit the removal of garbage, trash, rubbish or debris as provided in this Article, the City shall have the authority to cause such removal. In addition to any other penalty provided for by law, the City shall cause the costs of such removal to be charged against the owner, lessee or occupant of the lot, tract or parcel of land. (Ord. 517 §4, 1984)

Sec. 7-54. Refusal by contractor to collect.

It shall be unlawful for any person authorized by Section 7-54 above to collect garbage, trash, rubbish or debris hereinbefore provided to refuse or discard any such garbage, trash, rubbish or debris within the whole or any part of the City, to maintain any collection wagon in an unclean, filthy or leaky condition, to keep such wagon standing in any street or alley of the City longer than necessary for the actual work of collection, or to conduct collection or removal in any but a sanitary manner and by sanitary methods. (Ord. 517 §5, 1984)

Sec. 7-55. Vehicles and equipment.

(a) All vehicles hired for collection, removal or transportation of garbage shall be fitted with a watertight metal tank box provided with a tight-fitting metal cover.

(b) The only vehicle and equipment which may be used by persons hired for the collection and transportation of trash, rubbish or debris in residential areas within the City shall be:

(1) Packer-type vehicles, which shall mean that such vehicles are advertised and marketed as packer-type trucks; provided, however, that loads of only tree trimmings or bushes may be transported in open-bodied vehicles, provided that the material is securely tied in place to prevent scatter along the streets and alleys; and

(2) Dumpster and roll-off type vehicles, which shall mean vehicles advertised and marketed as dumpster and roll-off vehicles, may be used by persons hired for the collection and transportation of trash, rubbish and debris in commercial or industrial areas within the City. (Ord. 517 §6, 1984)

Sec. 7-56. Disposal of garbage and trash.

All garbage and trash shall be disposed of by delivery to a plant for treatment of garbage or a disposal location of landfill for trash or other place or use designated and approved by the City Council. It shall be unlawful for any person authorized to collect and remove garbage or trash to dump or deliver the same at any place other than such plant or other place so designated. (Ord. 517 §7, 1984)

Sec. 7-57. Compost pile.

Excluded from the requirements of this Article shall be the creation and maintenance of a compost pile on private property only approved by the Director of Public Works so long as it violates no health regulation, is not unsightly and does not constitute a safety hazard or a private or public nuisance. (Ord. 517 §8, 1984)

Sec. 7-58. Garbage, trash and rubbish containers.

No person shall deposit garbage, trash, rubbish or debris on or below the surface of the ground in a manner otherwise than herein prescribed. No person shall deposit or bury any garbage, trash, rubbish or debris in or upon a public street, alley or other public area, or upon the premises of another person, whether or not the garbage, trash, rubbish or debris is in a prescribed container except as may be permitted in this Article. (Ord. 517 §9, 1984)

Sec. 7-59. Specifications of garbage containers.

The garbage container provided for in this Article shall be water-tight and made of corrosion-resistant material, with a tight-fitting cover to be securely in place at all times. Such cover shall have a handle for easy removal. Plastic bags are acceptable if utilized in such a manner as to prevent animals from disturbing the contents. The garbage containers provided for herein shall be of any capacity not greater than forty (40) gallons, liquid measure, and the gross weight of such vessel, including garbage contents, shall not exceed eighty (80) pounds. (Ord. 517 §10, 1984)

Sec. 7-60. Specifications of trash, rubbish or debris containers.

All rubbish, trash or debris shall be placed in a sturdy container, provided by the owner or occupant, not to exceed forty (40) gallons in capacity, the weight of which shall not exceed eighty (80) pounds when filled, and each container shall be designed so as to permit quick and efficient pickup and shall have a tight-fitting cover to be kept securely in place at all times. This Section does not apply to containers used by persons in possession of any land, building or structure operated for a commercial or industrial purpose as provided in this Article. (Ord. 517 §11, 1984)

Sec. 7-61. Commercial and industrial containers.

It shall be the duty of every owner, occupant, tenant or other person in possession of any land, building or structure operated for a commercial or industrial purpose to provide a covered metal container, roll-off or Dumpster type box, approved by the Director of Public Works, and to cause all trash, rubbish or debris accumulated at said property to be deposited in such container. The weight of such container shall not be regulated by this Article, but such container shall be designed so as to permit quick and efficient pickup and in transit to be covered to curtail any blowing or loss of contents. (Ord. 517 §12, 1984)

Sec. 7-62. Location of containers.

No person shall place or maintain any garbage, trash, rubbish or debris containers in or upon public rights-of-way. Commercial or industrial haulers or contractors may use dumpster or roll-off type boxes where the type, duration of placement and location is approved by the Public Works Department. No person shall permanently place or maintain dumpster-type containers or roll-off type boxes in the front setback or sides of property bounded by streets (front yards/driveways/parking lots) in residential and commercial areas. All containers for garbage, trash, rubbish or debris for outside pickup shall be placed on the owner's or occupant's premises, within three (3) feet of the front curb where there is no alley, or in a dedicated City alley, on the morning of or in the evening before the day scheduled for collection; provided, however, that empty containers must be removed from the front setback or sides of property bounded by streets (front yards/driveways/parking lots) of the premises as soon as possible after collection but not more than sixteen (16) hours after such collection. For multifamily residences or business premises that have no place for storage of trash containers in the side or rear of the premises, or for multifamily residences or business premises where trash haulers cannot access dumpsters in the side or rear of the structures, permits may be applied for by the owners or lessees of the property to allow screened front setback placement of dumpsters or other trash containers, issued by the City Administrator or his or her designee. This Section does not apply to trash containers placed with approval of the City in parks and on downtown sidewalks for public use. (Ord. 517 §13, 1984; Ord. 98-719)

Sec. 7-63. Authority to contract.

The City Council shall have the authority to contract for the collection and disposal of garbage, trash and rubbish as herein defined. (Ord. 517 §14, 1984)

Sec. 7-64. Rules and regulations.

The City Council shall, by resolution, prepare rules and regulations as, in its discretion, are necessary or desirable in the interest of maintaining efficient and sanitary conditions in the garbage and rubbish collection system and service within the City; and such resolution, when adopted, shall be of the same force and effect as if incorporated herein. (Ord. 517 §15, 1984)

Sec. 7-65. Charges for service.

There is hereby imposed a trash collection service charge each month on each separated residential property ownership located in the City and receiving City service. The specific charge for said service shall be set from time to time by resolution as the City Council shall determine. (Ord. 517 §16, 1984)

Secs. 7-66—7-80. Reserved.

ARTICLE IV

Weeds and Brush

Sec. 7-81. Unlawful weed, grass or brush growth.

It is unlawful for any person, corporation or other entity who is the owner, lessee, occupant or person in control of any lot, tract or parcel of land in the City to permit or maintain on any such lot, tract or parcel of land or on, or along the sidewalk, street or alley adjacent to the same, between the property line and the curb or middle of the alley way or for ten (10) feet outside the property line if there is no such curb, any growth of weeds, grass or brush to a height greater than six (6) inches or in any manner that would constitute a fire hazard. (Ord. 539 §3, 1985; Ord. 628 §3, 1992)

Sec. 7-82. Weed, grass, brush or debris; removal required.

It is unlawful for any person, corporation or other entity who is the owner, lessee, occupant or in control of any lot, tract or parcel of land in the City to fail to remove any weeds, grass or brush required to be cut by the provisions of Section 7-81, and, further, it shall be unlawful to fail to remove all such weeds or brush and immediately dispose of the same. (Ord. 539 §3, 1985; Ord. 628 §4, 1992; Ord. 645 §1, 1993)

Sec. 7-83. Noxious plant prohibited.

It is unlawful for any person who is the owner, lessee or occupant of any lot, tract or parcel of land, to cause, suffer or allow poison ivy, ragweed or other poisonous or noxious plants to grow on any lot, tract or parcel of land in his or her control or to allow seed, pollen or other poisonous

particles or emanations therefrom to be carried through the air into or upon any other public or private place. (Ord. 539 §3, 1985)

Sec. 7-84. Noxious plant; removal required.

It is the duty of any person who is the owner, lessee or occupant of any lot, tract or parcel of land to cut and remove or cause to be removed and destroyed by any lawful means all poisonous or harmful vegetation growing on or located upon such lot, tract or parcel of land in the City as often as may be necessary to prevent accumulation thereof. (Ord. 539 §3, 1985)

Sec. 7-85. Notice to remove.

(a) In the event any of the provisions of the preceding four (4) Sections are violated, the City may serve, either personally or by mail, a written notice upon the owner, lessee or occupant or any person having the care and control of any lot or parcel of land to comply with the provisions of those Sections. Service thereof shall be deemed complete upon personal delivery or after (5) days from the date of mailing unless the mailed notice is returned undelivered.

(b) If the address of a person to be notified as provided in this Section is unknown or a mailed notice is returned undelivered, the notice may be served by posting the same in a conspicuous place on the property where the violation exists, in which event service of the notice shall be deemed complete as of the date of posting. (Ord. 539 §3, 1985)

Sec. 7-86. Failure to remove; abatement by City authorized, when, costs.

If the person or entity upon whom notice from Section 7-85 is served fails, neglects or refuses to correct the violation within seven (7) days after service of such notice, the City may cause the necessary work to be performed to eliminate the violation, and the City shall make reasonable efforts to notify the owner, lessee or occupant of the costs incurred; provided that in no event shall failure of the owner, lessee or occupant to receive notice of the costs void the lien provided for in this Section. Unpaid costs of such work plus fifteen percent (15%) of such costs for inspection and processing the work in connection therewith shall become a lien against the property as of the date the City Clerk certifies the cost and charges to the office of the County Treasurer for collection in the same manner as general property taxes are collected. (Ord. 539 §3, 1985)

Sec. 7-87. Notice; not prerequisite to prosecution.

No written notice of violation or of lien for costs as provided in the preceding Sections shall be required prior to a criminal prosecution for violation of these Sections or prior to any other lawful remedy. (Ord. 539 §3, 1985)

Sec. 7-88. Costs and charges; payment required.

It shall be the duty of the owner, lessee or occupant of the premises to pay the costs and charges provided for in Section 7-86 or object thereto as provided in Section 7-100 hereof. (Ord. 539 §3, 1985)

Sec. 7-89. Costs and charges; payment method.

The amount of assessment for the costs and charges provided for in this Article may be paid to the City Clerk at any time prior to certification of the same by the City to the office of the County Treasurer, but thereafter payment shall be made only to the office of the County Treasurer. (Ord. 539 §3, 1985)

Sec. 7-90. Costs and charges; objections hearing.

In the event any owner, lessee or occupant desires to object to the assessment made, he or she shall within thirty (30) days after completion of the work on the subject property, file a written objection thereto with the City Clerk who shall thereupon designate the next regular meeting of the City Council as the date when said objector may appear before the City Council and have his or her objection heard. (Ord. 539 §3, 1985)

Sec. 7-91. Burning unlawful.

(a) It is unlawful for any person to burn or set fire to any rubbish, trash, debris, litter, junk, weeds, brush, grass or other flammable material within the City or within one hundred (100) feet of the City limits, except if such fire is within a stove or other appliance, fixture or equipment suited or intended for such purpose, and further subject to the provisions of Subsection (b) relating to the burning within the City parks.

(b) It is unlawful for any person to burn or set fire to any flammable material within the City parks unless such fire is within a pit or facility specifically constructed for such fire.

(1) Such burning within the City parks shall be permitted only between the hours of 5:00 a.m. to 10:00 p.m.

(2) No fire in the City parks shall be unattended at any time.

(3) All fire and hot ashes shall be extinguished prior to leaving the area.

(c) This Section shall not apply to any fire authorized by an official of the Fire District or Fire Department. (Ord. 539 §3, 1985)

Secs. 7-92—7-110. Reserved.

ARTICLE V

Trees

Sec. 7-111. Tree planting and maintenance.

It shall be the duty of every owner or agent of any premises within the City, at his or her own expense, to:

(1) Plant trees under the supervision of the City Forester upon that portion of streets, avenues or public grounds abutting such premises when so ordered by resolution of the City Council.

(2) Trim, care for and maintain all tree branches so that they do not extend over or hang over any alley, sidewalk, corner sight triangle or public right-of-way lower than twelve (12) feet from ground level so as not to block pedestrian use or the vision of drivers or scrape vehicles driving on any street or alley.

(3) Remove all dead trees and boughs and spray all trees afflicted with scale or insects detrimental to the growth, life and health of such trees in the City, when so directed by the City Forester. (Prior code 2-243-3; Ord. 98-719)

Sec. 7-112. Correction by City upon noncompliance.

If any such owner or agent shall fail or refuse to correct such condition or conditions described above, within a reasonable time after directed so to do by the City Forester, the City Forester shall proceed to correct such condition, trim, spray, remove or destroy such trees and boughs, or cause the same to be done, all at the expense of such property owner or agent and, if necessary, shall recover the reasonable and necessary expense of the same by suit of law. (Prior code 2-243-3; Ord. 645 §1, 1993)

Sec. 7-113. Refusal to comply.

Every owner or agent who shall fail to comply with the orders of the City Forester in his or her administration of this Article shall be prima facie in violation of this Article and, upon conviction hereof, shall be fined or imprisoned as provided for in Section 1-72 of this Code. (Prior code 2-243-3; Ord. 645 §1, 1993)

Sec. 7-114. Permit required for sale of trees.

Every person shipping or bringing into the City, for sale, ornamental or shade trees shall forthwith notify the City Forester thereof, and shall not sell, offer for sale, distribute or plant the same or any part thereof without having first obtained from the City Forester a permit therefor. No permit therefor shall be granted if, in the opinion of the City Forester, any of such trees is infected or in such condition as to be dangerous to itself or other trees in the City. (Prior code 2-243-4)

Sec. 7-115. Permit required to plant, remove trees.

No person shall plant, remove, destroy, deface or injure any tree in any of the streets, avenues or public grounds in the City without first obtaining a permit therefor from the City Forester. (Prior code 2-243-5; Ord. 645 §1, 1993)

Sec. 7-116. Spraying, trimming and removing business; license required.

No person shall engage in the business of spraying, trimming or removing trees from any street, avenue, public grounds or private property within the City without first having a license therefor. Application for such license shall be made to the City Clerk and the fee therefor shall be either two dollars (\$2.00) for any one-day period or five dollars (\$5.00) for any calendar year period. Any

person so licensed may spray, trim and remove trees, boughs or dead wood from any street, avenue, public ground or private property within the City in accordance with the terms of this Article and after obtaining an inspection or permit from the City Forester applicable thereto. Before spraying any such trees, the licensee shall have his or her equipment and spraying solution inspected and approved by the City Forester. (Prior code 2-243-5)

Sec. 7-117. Fees.

The City Forester shall receive and collect from every person requesting permits and inspections provided herein, the following fees:

- (1) For issuing a permit under Section 7-114, the sum of twenty-five cents (\$.25) per tree;
- (2) For issuing a permit under Section 7-115, the sum of twenty-five cents (\$.25) per tree;
- (3) For making inspection of spraying equipment and spraying solution under Section 7-116, the sum of one dollar (\$1.00) for each unit of spraying equipment inspected. (Prior code 2-243-6; Ord. 645 §1, 1993)

Secs. 7-118—7-130. Reserved.

ARTICLE VI

Animals and Fowl

Sec. 7-131. Definitions.

For purposes of this Article, the following words shall have the meanings ascribed hereafter:

An animal which creates a danger shall mean any dog or other animal that, without provocation, bites or attacks humans or other animals or, in a vicious or frightening manner, approaches any person in an apparent attitude of attack, whether or not the attack is consummated or capable of being consummated.

Boarding kennel shall mean any structure, yard, facility or confined area, including private residences, business structures and industrial sites, designated to house animals in large numbers and to serve as a temporary service to animal owners who contract with such kennel to house and care for their pet for a specific period of time.

Cat shall mean any member of the feline family, including the domestic cat, lion, tiger, leopard, jaguar, cougar, wildcat, lynx, cheetah and any member of the feline family.

Code Enforcement Officer shall mean the person who is authorized and responsible for enforcement of this Code. Animal Warden and Animal Control Officer are terms synonymous with Code Enforcement Officer.

Dog shall mean any animal of the canine species regardless of sex or breed.

Dog, neutered male shall mean any male dog that has undergone an operation where both testes have been surgically removed. A certification of such procedure by a licensed veterinarian is required.

Dog, spayed female shall mean any female dog on which an ovariectomy or ovariohysterectomy or other neutering procedure has been performed by a licensed veterinarian and accompanied by a certificate asserting such operation or other procedure has been performed.

Euthanization shall mean the act of causing death painlessly to any animal as defined or designated in this Article.

Feral/wild animal shall mean any animal normally domesticated or normally wild that is unowned and exhibits behavior that would lead a reasonable person to presume that such animal is in fact wild and/or unowned by a person or owner as defined.

Guard dog shall mean 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 and that is either securely enclosed within that area at all times or under the continuous control of a trained handler.

Harboring shall mean the act of keeping and/or caring for an animal or providing an animal premises to which the animal returns for food, shelter or care.

Owner shall mean any person, corporation or legal entity in possession of, harboring, keeping or having custody or control over any animal to which the Section in which the word appears is applicable, or who shall suffer any animal to remain about his or her premises.

Pet animal shall mean and includes dogs, cats, rabbits, rodents, birds, reptiles and any other species of animal which is sold as or retained as a household pet, but does not include skunks, nonhuman primates and other species of wild, feral, exotic or carnivorous animals that may be further restricted in this Code.

Rabies shall mean, as defined by the State Health Department, a communicable disease of both wild and domestic animals transmittable to humans and a specific infectious disease of certain animals, especially dogs and wolves, contracted by humans by direct inoculation, as by bite of infected animal, and due to a filtrable virus as medically defined in common.

Rabies vaccination shall mean the vaccination of a dog, cat or other animal with an antirabies vaccine approved by the State Department of Health and administered by a licensed, qualified veterinarian of the State.

Stray animal shall mean any animal for which there is no identifiable owner or harbor.

Wild animal shall mean and includes all species of animals which exist in their natural, unconfined state and are normally not domesticated. (Prior code 11-484-1, 11-484-23, 11-484-29; Ord. 645 §1, 1993; Ord. 2003-810 §2)

Sec. 7-132. Authority.

Animal control and the enforcement of this Article shall be the responsibility of, and under the authority of, the Police Department.

(1) The Chief of Police, all sworn police officers and the Code Enforcement Officer shall be responsible for enforcing the provisions of this Article and shall possess the necessary authority to ensure compliance with the provisions of this Article.

a. Issuance of municipal summons/ complaint to persons in violation of this Article or any of its provisions;

b. Impoundment of animals when such action is required or deemed necessary due to Code violations, hazardous circumstances, exigent circumstances, emergency conditions or other like circumstances;

c. Emergency destruction of animal when conditions exist that require such destruction. Such conditions include, but are not limited to, extremely harmful, dangerous or life-threatening situations to citizens, including enforcement personnel, or when the physical condition of the animal is such that the immediate killing of such animal is the most humane and proper action to take. Emergency destruction of animals shall be completed in the safest, most humane manner available to the Code Enforcement Officer. Human life and safety will dictate such action;

d. Written and/or verbal warnings or notices requesting compliance by animal owners;

e. Inspection of premises for the purpose of public health and safety, as well as the condition and health of an animal; and/or

f. Impounding of animals from private property when it is apparent that such animals are being mistreated, abused or neglected by the owner; however, requirements for search warrants shall not be excepted.

(2) Neither the City nor any of its officers shall be civilly or criminally liable for going upon private property for the enforcement of this Article, nor for the emergency destruction of an animal. (Prior code 11-484-2; Ord. 645 §1, 1993)

Sec. 7-133. Interference with enforcement personnel and veterinarians.

It shall be unlawful for any person to interfere with, molest, hinder or prevent the members of the Police Department, the Code Enforcement Officer or any licensed veterinarian of the State in the discharge of their respective duties as herein prescribed or to violate any of the provisions of this Article. (Prior code 11-484-3)

Sec. 7-134. Licensing and registration of animals.

Every person within the City who owns or harbors any dog and/or cat shall purchase an annual license for and register every dog and/or cat he or she owns or harbors with the City:

(1) Licensing completed: Licensing shall be completed each calendar year during the months of January, February and March.

(2) License period: License and registration of animals shall be for a period of one (1) calendar year beginning January 1st and expiring December 31st.

(3) Any person who purchases, obtains or harbors any dog or cat after April 1st of each calendar year shall, immediately following acquisition, have such animal licensed and registered with the City.

(4) An annual grace period for obtaining the license and registration shall exist from January 1st through March 31st of each year.

(5) Any dog or cat that has not been licensed and registered within the prescribed time limits shall be considered to be an unlicensed animal, and the owner may be cited into Municipal Court for such violation.

(6) Administrative consideration shall be given if a multi-year vaccination certificate is submitted to the City. (Prior code 11-484-4)

Sec. 7-135. Fee schedule for license and registration.

(a) Owners shall be charged a fee of ten dollars (\$10.00) for each dog and cat (unspayed and unneutered) that they register with the City.

(b) A special fee shall be established in the amount of two dollars (\$2.00) for animals that have been spayed or neutered for registration in the City. This fee shall be the total cost to owners who present a certificate of such neutered condition or spayed condition from a duly licensed veterinarian. This fee shall replace the normal annual fee of ten dollars (\$10.00) and shall be administered the same as the normal fee, with the same requirements to owners. (Prior code 11-484-5)

Sec. 7-136. Authority to issue licenses and registration and to collect fees.

The City has the authority and responsibility to collect all fees and issue licenses and registrations for all dog and cat licenses in the City. (Prior code 11-484-6)

Sec. 7-137. Required information for license and registration.

(a) The Police Department shall issue licenses to owners of dogs and cats, and such license shall have the following information provided:

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

(b) The tags shall be made of durable material suitable to be attached to the collar or harness of the animal. Such tag shall state the year for which it is issued and the series number of the license and tag. Such tags shall also be prepared and distributed by the City. (Prior code 11-484-7; Ord. 645 §1, 1993)

Sec. 7-138. License tag to be attached.

(a) Every owner or harbinger of a dog shall attach the tag evidencing the licensing and inoculation with antirabies vaccine to the collar or harness of the inoculated and licensed dog, and such collar or harness shall be worn by said dog at all times. The license shall be retained by the owner or harbinger of the inoculated and licensed dog for inspection by any member of the Police Department at any time.

(b) Due to the unique activity of cats and due to the safety factors regarding cats wearing collars and harnesses, the requirements to attach the license to the cat does not apply as it does to dogs. (Prior code 11-484-8)

Sec. 7-139. Unlawful possession of license.

Only those persons who own or harbor a dog or cat that has been vaccinated and licensed in accordance with the provisions of this Article shall be permitted to possess the licenses and tags provided for herein. No person may affix a tag evidencing vaccination and licensing to the collar or harness of any dog or cat except the tag issued for that dog or cat at the time of licensing. (Prior code 11-484-9)

Sec. 7-140. Rabies vaccination required; observation period.

(a) Vaccination required. Every owner of a dog or cat six (6) months of age or over shall have such animal vaccinated against rabies, and then annually thereafter. Each person moving within the City limits shall comply with this section within thirty (30) days after having moved into the City.

(b) Observation period required. If a dog or cat has inflicted a bite or scratch on any person causing an abrasion of the skin or on any other animal within the last ten (10) days immediately preceding the date of moving into the City, the owner of the dog or cat shall report such fact to a veterinarian and no rabies vaccine shall be administered until after the ten-day observation period has elapsed.

(c) Observation period required on all animal bites and scratches. If a dog or cat (or any other animal that is capable of carrying rabies) has inflicted a bite or scratch on any person causing an abrasion of the skin or on any other animal such attacking dog or cat or other animal shall be impounded for a period of ten (10) days. This observation period will be used to determine if the animal has rabies or any other disease that may affect the health of the injured person or animal. The owner of such impounded animal shall be responsible for all costs and fees, including those of a veterinarian. (Prior code 11-484-10; Ord. 628 §7, 1992; Ord. 645 §1, 1993)

Sec. 7-141. Certification of rabies vaccination.

Upon vaccination of a dog or cat with antirabies vaccine, the licensed veterinarian shall execute and furnish the owner of said dog or cat a written certification of such vaccination as evidence. Certification will be dated, will indicate the type of vaccine administered and shall contain the signature or seal of the administering veterinarian. The certification shall clearly identify the inoculated animal. (Prior code 11-484-11)

Sec. 7-142. Impoundment of dogs authorized.

(a) The Chief of Police, all police officers and the Code Enforcement Officer may lawfully obtain control over any dog in the City and may impound such dog in an authorized facility for a period of three (3) days. Impoundment may occur:

- (1) When there is evidence that such dog is running at large as defined in this Article;
- (2) When there is evidence that such dog is vicious and a threat to human life and/or well-being;
- (3) When directed to impound by the Municipal Court, County Court or any State Court (the duration of such court-imposed impoundment shall be at the discretion of the judge issuing such order);
- (4) When such dog has attacked, bitten or caused injury to any person, including the Code Enforcement Officer;
- (5) When there is probable cause to believe that such dog has been or is being neglected or abused by the owner or another person;
- (6) When there is evidence that such dog is a public nuisance, is a danger to the public or presents a health hazard;
- (7) When there is evidence that such dog is not licensed and registered in accordance with the provisions of this Article; or
- (8) When there is evidence that such dog has not been vaccinated against rabies as prescribed in this Article.

(b) Any dog that has been impounded for a period of at least three (3) calendar days will be made available for adoption or, if not adopted, shall be destroyed, provided that the owner of such impounded dog has not made prior arrangements with the City and the impound facility. Owners of dogs that have been destroyed shall be responsible for all costs, fees and other charges, including boarding costs and veterinarian costs, that their dog incurred during the three-day impound period. (Prior code 11-484-12)

Sec. 7-143. Impoundment of cats authorized.

(a) The Chief of Police, all police officers and the Code Enforcement Officer may lawfully obtain control over any cat in the City and may impound any cat under the following conditions, for a period of at least three (3) days:

- (1) When there is evidence that such cat is vicious or poses a threat to human life or well-being;
- (2) When directed to impound by the Municipal Court, County Court or any State Court;
- (3) When such cat has attacked, bitten or scratched any person, including the Code Enforcement Officer;
- (4) When there is evidence that such cat is being neglected or abused by the owner or any other person;
- (5) When there is evidence that such cat is a public nuisance, danger to the public or a health hazard; or
- (6) When there is evidence that such cat has not been vaccinated against rabies as prescribed in this Article.

(b) Any cat that has been impounded for a period of at least three (3) days will be destroyed or made available for adoption following such period unless the owner of such animal makes specific arrangements with the impounding facility for the release of such cat at a later time and the three-day period elapsing. Such arrangement shall be an agreement between the owner and the impounding facility. Owners of cats that have been destroyed shall be responsible for all fees and costs involved with such impoundment, treatment and destruction of such animal. If the owner is not known, the City shall have the financial responsibility. (Prior code 11-484-13)

Sec. 7-144. Impound and boarding fees.

(a) Every owner of any impounded animal shall be responsible for paying all fees and costs related to such impoundment and boarding and such, treatment costs and disposal fees as determined by the impounding facility.

- (1) An impound fee of twenty dollars (\$20.00) per animal shall be charged to the owner of said animal. This fee shall be in addition to the boarding fee charged in Subsection (2) below.
- (2) A boarding fee of ten dollars (\$10.00) per calendar day that an animal is impounded shall be charged to the owner or keeper of said animal.
- (3) In a Municipal Court case, the Court shall assess fees and costs against a convicted defendant as part of the court costs, if those fees have not yet been collected.

(b) It shall be unlawful for an owner or keeper of an animal to fail to pay impound, boarding, vaccination, treatment or other fees specified in this chapter, whether the animal was euthanized or not. (Prior code 11-484-14; Ord. 563, 1988; Ord. 628 §1, 1992)

Sec. 7-145. Impoundment of animals; general.

Animals and fowl owned or harbored in violation of this Code or any law of the State shall be taken into custody by a police officer or the Code Enforcement Officer and impounded. Stray animals shall also be impounded and held for three (3) days. (Prior code 11-484-15)

Sec. 7-146. Impounded animal; unauthorized removal prohibited.

It is unlawful for any person to remove from the official place of impoundment or confinement any animal or fowl which has been impounded or confined as authorized pursuant to this Article without the written approval of the City Police Department and/or impound facility representatives. (Prior code 11-484-16)

Sec. 7-147. Impounded animal; without vaccination certification.

Any animal that is lawfully impounded within the provisions of this Article, and for which there is not a certificate of rabies vaccination available, shall be vaccinated for rabies prevention by a licensed veterinarian, and the cost of such vaccination shall be met by the owner or harbored of such animal. If the animal is not claimed in three (3) days and becomes available for adoption, the adopting person must pay for the vaccination of such animal and the animal will not be released until vaccinated. No animal will be vaccinated until at least three (3) days have elapsed from the date of impoundment. The City shall never be held responsible for costs involved in the vaccination of animals against rabies. (Prior code 11-484-17)

Sec. 7-148. Trapping of animals authorized.

Any police officer or Code Enforcement Officer, or any citizen with express authorization from the Chief of Police, may set out and trap small animals as deemed necessary. Any small animal that is declared a nuisance, danger or health hazard may be trapped. Such traps must be approved by the Chief of Police or his or her designee and must be a suitable, humane device to capture animals. (Prior code 11-484-18)

Sec. 7-149. Adoption of impounded and/or abandoned animals.

Any person may adopt a dog or cat that has been impounded for at least three (3) consecutive days and whose owner has not made claim for such dog or cat within the three-day period. Any dog or cat that is placed for adoption must be physically fit as a pet and must have certification of all necessary vaccinations, including the antirabies vaccination. The cost for adoption of such animals will include the vaccination costs, impound fees and any other veterinarian costs or fees that have been incurred while such animal was impounded. Vicious animals or animals with suspected disease shall not be placed for adoption. (Prior code 11-484-19; Ord. 645 §1, 1993)

Sec. 7-150. Kennels.

(a) No person, group of persons or business entity shall own, keep or harbor more than three (3) dogs of more than six (6) months of age, more than one (1) litter of pups, more than three (3) cats of more than six (6) months of age, more than one (1) litter of kittens, or more than a total of three (3) dogs and cats of more than six (6) months old in any combination; or engage in commercial business

of breeding, buying, selling, trading, training or boarding cats and/or dogs or both cats and dogs without having obtained a kennel license from the City.

(b) Kennel licenses must be renewed every year between January 1st and March 1st. No kennel license shall be issued until an inspection certificate shall have been issued certifying approval of the kennel by the Chief of Police and a certificate from the City Administrator shall have been issued certifying that the applicant for the kennel license is not violating zoning laws of the City.

(c) If the City has not received any protest against its renewal, the City Clerk may issue a renewal of an existing kennel license at the same location without any report from the Chief of Police and City Administrator.

(d) If the Chief of Police, Code Enforcement Officer or any police officer finds that the holder of any kennel license is violating any zoning law, health law or any other law of the State or the City, or is maintaining said facility in such manner as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity, he or she shall report such fact to the City and said license shall not be renewed except after a public hearing before the City Council.

(e) The Chief of Police, Code Enforcement Officer or any police officer shall have the right to inspect any premises licensed under this Section at any time, and nothing shall prevent the entry into private property for the purpose of this inspection. The application for a kennel license shall constitute consent to such entry and inspection.

(f) The City Council may suspend or revoke a kennel license if pursuant to a public hearing it finds any of the following to be true:

(1) The kennel is maintained contrary to any applicable statute or ordinance of regulation of the State, the County or the City;

(2) The kennel is maintained as to be a public nuisance; or

(3) The kennel is maintained so as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

(g) License fee:

(1) Initial application: A fee of one hundred dollars (\$100.00) to be paid to the City. This fee includes all administrative costs, filing costs and first year licensing of such kennel.

(2) Renewal fees: A fee of twenty-five dollars (\$25.00) to be paid to the City for annual licensing of said kennel. (Prior code 11-484-20)

Sec. 7-151. Mistreatment.

(a) Cruelty/Neglect: It shall be unlawful for any person, owner or harbinger of any animal to overdrive, overload, drive when overloaded, overwork, torture, deprive of necessary sustenance, cruelly beat, mutilate or kill needlessly, to carry in any vehicle or otherwise transport in a cruel and inhumane manner any animal, or to cause any of these acts or omissions to be done. It shall be unlawful for any animal owner or harbinger to fail to provide such animal with proper food, drink,

protection from the weather and necessary medical treatment to prevent suffering, or to cause any of these acts or omissions to be done.

(b) Poisoning: It shall be unlawful for any person to poison any animal or to distribute poison in any manner whatsoever with the intent to, or for the purpose of, poisoning any animal; provided that for the purpose only of this Subsection, the word animal shall not include mice, rats, bats or other rodents but shall include hamsters, guinea pigs, rabbits or squirrels. The distribution of any poison or poisoned meat or food, other than those specifically for insect or mouse, rat, bat or other rodent poisoning, shall be prima facie evidence of violation of this Subsection.

(c) Molesting birds:

(1) It shall be unlawful for any person within the City to at any time willfully frighten, shoot at, wound, kill, capture, ensnare, net, trap or in any other manner molest or injure any bird, fowl or water fowl, or in any manner willfully molest or injure the nest, eggs or young of any such bird, fowl or water fowl.

(2) This subsection shall not prevent the Chief of Police, any sworn police officer, the Animal Control Officer, Code Enforcement Officer or any person who has received permission from the Chief of Police to take appropriate, humane action against the nesting of birds where such nesting and gathering of birds causes a nuisance or obvious health hazard to the persons of the community.

(d) Animal fights: It shall be unlawful for any person to cause, instigate or encourage within the City any dog fight, cock fight, bull fight or other combat between animals or between animals and humans. It shall be unlawful to maintain any place where any animals are permitted to fight for exhibition, for wages or for sport. Ownership of the animal shall not constitute a defense for such acts or for any violation of this Subsection.

(e) Abandonment: It shall be unlawful for any person to abandon any animal or to cause such to be done. (Prior code 11-484-21)

Sec. 7-152. Running at large.

(a) Prohibited: It shall be unlawful for the owner or harbinger of any dog or other animal, other than an ordinary domesticated cat, to fail to prevent the same from running at large within the City. For the purpose of this Article, the term running at large shall mean any animal, other than a domestic house cat, whether or not inoculated, which is off the premises of its owner or harbinger and not under control of that owner or harbinger who is competent to effectively control such animal. Effective control shall include restraining it by a leash, cord or chain not exceeding ten (10) feet in length but does not include only verbal control. Any animal enclosed within the automobile or other vehicle of its owner shall be deemed to be upon the owner's premises. No animal shall be deemed to be running at large, however, when upon private property, with the permission of the owner or other person with right to possession thereof, and enclosed either by fencing or other means.

(b) Killed or injured on highway: Notwithstanding any provisions herein to the contrary, animals injured or killed on or along public streets or other rights-of-way shall be deemed to be running at large. The Code Enforcement Officer or any member of the Police Department shall remove all such

animals and, at their discretion, take those needing medical attention to a veterinarian or to the City impoundment facility. The owner of such animal shall be liable for all expenses of treatment and of impoundment as well as any penalties which may be imposed for violation of this Section.

(c) Unspayed females: Notwithstanding any provisions herein to the contrary, any unspayed female animal in the state of estrus (heat) shall be deemed to be running at large unless confined during such period of time within a house, building or other secure enclosure which will be so constructed that no other animal of the same species may gain access to the confined area unless intentionally admitted to such area by the confined animal's owner for breeding purposes. The Code Enforcement Officer or any officer for the City shall order the owner to remove any unspayed female animal in the state of estrus (heat) and not confined as herein required and to confine such animal to a boarding kennel or veterinary hospital of the owner's choice or to the City impoundment facility for the duration of the estrous cycle. Any such animal so confined voluntarily by her owner to the animal impoundment facility shall not be disposed of as provided in Sections 7-142 and 7-143 unless, after notification that the animal is no longer in estrus and may be redeemed, her owner is deemed to have abandoned said animal as provided. All expenses incurred as a result of the confinement shall be paid by the owner. Animals voluntarily confined to the animal impoundment facility shall be charged at the rate established for routine boarding by the City, but no impoundment fees shall be assessed. Failure to comply with the confinement order of the Code Enforcement Officer or any police officer shall constitute a violation of this Section, the animal will then be impounded and her owner shall be subject to the penalty set forth in this Article. (Prior code 11-484-22; Ord. 645 §1, 1993)

Sec. 7-153. Keeping an animal which creates a danger.

(a) Prohibited: It shall be unlawful for any person to own, keep or harbor an animal which creates a danger as defined in Section 7-131.

(b) Guard dogs excepted: Dogs that are maintained as guard dogs and that are in compliance with Section 7-159 shall not be included under this Section.

(c) Violations: Any person found guilty of violating the provisions of this Section shall be punished by a fine of not less than one hundred fifty dollars (\$150.00) and up to one thousand dollars (\$1,000.00) and by a jail term of up to one (1) year; and the Municipal Judge shall have the continuing jurisdiction and authority to order the defendant to adopt and enforce protective and deterrent measures to ensure the animal does not thereafter create a danger to humans or other animals. Further, the Municipal Judge shall have the jurisdiction and authority to make a finding, at the time of a conviction or at a hearing convened for such purpose after conviction, that the subject animal represents a clear and present danger to humans or other animals and may order the animal destroyed in a humane manner under the supervision of the City Police Department. A pit bull dog as defined in Section 7-242, engaging in conduct described as an animal which creates a danger in Section 7-131, is a clear and present danger to the community.

(d) Immediate destruction: Nothing in this Section shall be construed to prevent the immediate destruction by the Code Enforcement Officer or a police officer of any vicious dog or other animal when less drastic methods such as tranquilizing are not available or effective and when neither the Code Enforcement Officer, a member of the Police Department nor the animal's owner is able to restrain or control the animal so that it might be impounded. (Prior code 11-484-23; Ord. 645 §1, 1993; Ord. 2003-810 §3)

Sec. 7-154. Keeping of wild, exotic and dangerous animals.

(a) Prohibited: It shall be unlawful for any person to own, possess, harbor, sell or in any other manner traffic in the following species of animals:

- (1) All poisonous snakes and poisonous reptiles and all nonpoisonous snakes with a length greater than six (6) feet;
- (2) Gorillas, chimpanzees, orangutans, baboons and any other primates;
- (3) Any species of feline not falling within the categories of ordinary domesticated house cats;
- (4) Bears of any species;
- (5) Raccoons, porcupines, skunks, badgers or other like species; or
- (6) Foxes, wolves, coyotes or other species of canines other than dogs.

(b) Exceptions: The provision of this Section shall not be applicable to any bona fide zoological garden, any circus or carnival licensed by the City or any bona fide research institute using wild, exotic or dangerous animals for scientific research.

(c) At large: It shall be the duty of the Code Enforcement Officer to apprehend, or cause such animal to be removed from the City, any wild animal that may be impounded, released in wild areas outside of the City which are representative of the animal's natural habitat, or humanely destroyed as the Code Enforcement Officer in his or her discretion shall determine, subject to applicable state law. The Code Enforcement Officer is hereby authorized to use any tranquilizer gun or other firearm to subdue or destroy any wild or dangerous animal that is determined by the Animal Code Enforcement Officer in his or her discretion to be of danger to either itself or to the public health and safety. (Prior code 11-484-24)

Sec. 7-155. Removal of excrement.

(a) It shall be unlawful for the owner of any dog or other animal, except an ordinary domesticated house cat, not to immediately remove excrement deposited by such animal upon a common thoroughfare, street, sidewalk, play area or park or upon any other public property (except unlandscaped City-owned property in its native state), or upon private property when permission of the owner or tenant of said property has not been obtained, and the same is hereby declared to be a public nuisance and a violation of this Article. Animal excrement shall not be placed in storm sewers or street gutters but shall be disposed of in a sanitary manner.

(b) Cleanliness of premises required. It is unlawful for any person to maintain or permit the maintenance of any stable, stall, shed, compartment or any yard or appurtenance thereof in which any animals or fowl shall be kept or any other place in the City in which manure or liquid discharges of animals shall collect and accumulate if such stable, stall, shed, compartment or other yard or appurtenance thereof is not kept in a clean and wholesome condition in a manner which will prevent offensive odors, attraction of insects or rodents or creation of other unsanitary conditions that are hazardous to the health of the public. (Prior code 11-484-25)

Sec. 7-156. Damage to property.

Any animal owner or harbinger whose animal, whether or not running at large, destroys, damages or injures any shrubbery, plants, flowers, grass, lawn, fence or anything whatsoever upon any public property or upon any private property when permission of the owner or tenant has not been obtained, shall be in violation of this Article and the same is hereby declared to be public nuisance. (Prior code 11-484-26)

Sec. 7-157. Excessive number prohibited.

It shall be unlawful for any person to keep or harbor more than three (3) dogs and/or cats in combined total that are more than six (6) months old or that are from more than one (1) litter of pups or kittens that are more than three (3) months old at any one (1) location unless licensed to operate a kennel by the State, pursuant to state statutes, and in compliance with the zoning ordinances of the City. (Prior code 11-484-27)

Sec. 7-158. Interference with police dogs.

It shall be unlawful for any person to willfully or maliciously torture, torment, beat, kick, mutilate, injure, disable or kill any dog used by the Police Department or any other law enforcement agency, including the Sheriff and National Guard, in the performance of the functions and duties of such law enforcement agency, or to unreasonably interfere or meddle with any such dog while being used by said law enforcement agency or any member thereof in the performance of any of the functions or duties of said department, such law enforcement agency or such member. (Prior code 11-484-28)

Sec. 7-159. Keeping of guard dogs.

(a) It shall be unlawful for any person to place or maintain guard dogs in any area for the protection of persons or property unless the following provisions are met:

- (1) The dogs shall be confined to an enclosed area adequate to insure they will not escape; or
- (2) They shall be under the absolute control of a handler at all times when not securely enclosed; and
- (3) The owner or other person in control of the premises upon which a guard dog is maintained shall post warning signs on, over or next to all exterior doors stating that such dog is on the premises. At least one (1) such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curblineline or a distance of fifty (50) feet, whichever is lesser, and shall, additionally, in the case of the commercial use of a guard dog, contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-fours (24) hours a day; and
- (4) Prior to the placing of a guard dog on any property for commercial use, the person responsible for the placing shall inform the Code Enforcement Officer, the Chief of Police and the Fire Chief, in writing, of his or her intention to post said dog or dogs, the number of dogs to be posted, the location where said dog or dogs will be posted and the approximate length of time said dog or dogs will be guarding the area.

(b) For the purposes of this Section, the term commercial use shall mean:

(1) The placing of guard dogs on either residential or commercial property pursuant to an agreement or contract with a person in the business of supplying guard dogs for remuneration; or

(2) The placing of guard dogs on any commercial property, whether the dogs are owned by the property owner, tenant or other person with right of possession or control of the property, or whether the dogs are owned by another. (Prior code 11-484-29)

Sec. 7-160. Noisy animals; animals as nuisances.

(a) It shall be unlawful for any person to own or keep any dog which by loud or frequent or habitual barking, screeching or howling shall cause any person unreasonable annoyance and such is hereby declared to be a public nuisance and a violation of this Article.

(b) It is unlawful for any person, corporation or other entity to own, keep or possess any animal which by noise, odor, attraction of insects or rodents or creation of other unsanitary condition, causes a public nuisance or detriment to the public health, safety or welfare.

(c) The Code Enforcement Officer or any member of the Police Department shall have the authority to abate such nuisance, including impoundment of the animal. (Prior code 11-484-30; Ord. 628 §6, 1992)

Sec. 7-161. Zoning requirements.

(a) The zoning ordinances for the City, as they pertain to livestock, animals, kennels and other matters related to possession and keeping of animals within the City shall prevail.

(b) It shall be unlawful for any person to keep or harbor within the corporate limits of the City any hogs, pigs, swine, sheep, goats, cattle, mules, or any peacocks, pigeons, turkeys, ducks, chickens or other like fowl, except as specifically permitted by the zoning ordinance. (Prior code 11-484-31; Ord. 578 §1, 1989; Ord. 2006-882)

Sec. 7-162. Livestock running at large.

It shall be unlawful for any person who is the owner or harbinger of any horse, cow or other livestock to fail to keep any such horse, cow or other livestock securely corralled or fenced and under such reasonable control as to prevent such horse, cow or other livestock from going attended or unattended on any public property or any private property whose owner or tenant has not given permission for such entry. (Prior code 11-484-32)

Sec. 7-163. Impoundment of livestock and disposition.

(a) Impoundment: In addition to any other penalty provided for violation of any section of this Article, the Code Enforcement Officer or any member of the Police Department is hereby authorized to remove and impound any horse, cow or other livestock found running at large in violation of Section 7-162, and shall impound and keep such animal in a suitable place for disposition as herein provided, and he or she shall, as soon as practical, contact the state brand inspector's office to determine the ownership of the animal.

(b) Fees: After impounding and before any horse, cow or other livestock is released to the owner or person having lawful custody thereof, there shall be paid the following fees:

(1) Impounding: twenty dollars (\$20.00) per animal.

(2) Boarding: actual cost incurred for boarding based on the boarding fees of the facility utilized.

(3) All actual costs of publication of notice of sale.

(4) All actual costs for necessary veterinary care.

(c) Sale: No horse, cow or other livestock shall be impounded and boarded for more than ten (10) days, and prior to the expiration of the ten-day period, the Chief of Police shall advertise one (1) time in a newspaper of general circulation in the City that such animal so described in the notice of sale will be sold to the highest bidder. If there is no bidder at the sale, the Chief of Police shall sell the animal at private sale. From the proceeds of the sale, there shall be withheld all costs incurred in impounding, boarding, veterinary care and advertising and conducting sale, and any excess remaining shall be returned to the owner, if known. If the owner cannot be located or does not claim the excess funds within thirty (30) days after the sale by presenting satisfactory evidence of ownership, the excess, if any, shall be used to defray those costs incurred by the City for the impounding, boarding and sale of such animals and such funds will be submitted to the General Fund of the City.

(d) Bill of sale: Upon the sale of the horse, cow or other livestock at public or private sale as herein provided, the Chief of Police shall execute to the buyer thereof a bill of sale describing the animal and said bill of sale shall extinguish any prior title or interest of any other person claiming an interest in the animal. (Prior code 11-484-33)

Sec. 7-164. Herding of livestock prohibited.

(a) It shall be unlawful to picket or herd any livestock upon any street, alley or public ground within the City.

(b) Public fairs and/or parades may receive written exemption from the requirements of this Section by applying for such through the Chief of Police. It shall be at the discretion of the Chief of Police if such exemption is approved. (Prior code 11-484-34)

Sec. 7-165. Riding of horses in City streets.

Horses ridden along or on any street or road in the City will be done so at the rider's own risk, and such rider must yield to all motor vehicles and must comply with all rules, laws and regulations of the highway including state laws and the Model Traffic Code as adopted by the City, with respect to the rules of the road. (Prior code 11-484-35; Ord. 645 §1, 1993)

Sec. 7-166. Prosecution.

For the purpose of prosecution for violations of any Section of this Article, it shall be necessary in order to obtain a conviction to prove notice on the part of the owner of the animal in question, that said animal was violating any of the sections of this Article at the time and place charged, it being the

purpose of this Section to impose strict liability upon the owner of any domesticated animal. (Prior code 11-484-37)

Secs. 7-167—7-180. Reserved.

ARTICLE VII

Bees

Sec. 7-181. Bee keeping prohibited.

No person shall keep within the City any bee yards or beehives containing bees, except that bees may be transported through the City. In that case, the hives in which the bees are kept shall be securely closed so that the bees cannot escape therefrom. (Ord. 539 §3, 1985)

Sec. 7-182. Failure to cover beehives.

No person shall haul or transfer through the City any parts of beehives in which there is honey or comb unless the same are covered with canvas or covered in some manner as to keep the bees which might be therein from escaping. (Ord. 539 §3, 1985)

Secs. 7-183—7-200. Reserved.

ARTICLE VIII

Undesirable Plant Management Plan

Sec. 7-201. Adoption.

Pursuant to Parts 1 and 2 of Article 16 of Title 31, C.R.S., there is hereby adopted by reference Ordinance 169 of Weld County, Colorado, promulgated and published as such by the Board of County Commissioners of Weld County, Colorado, 915 10th Street, Greeley, Colorado 80632. The subject matter of the ordinance relates primarily to enforcing an undesirable plant management plan. The purpose of the adoption of this Weld County Ordinance by reference is to provide a consistent approach to managing undesirable plants with Weld County. Three (3) copies of Ordinance 169 adopted herein are now filed with the office of the City Clerk and may be inspected during regular business hours. (Ord. 99-747)

Sec. 7-202. Deletions.

Article V of Ordinance 169 is hereby deleted as the ordinance has become effective, and the effective date of the ordinance codified herein shall control its effective date within the City. (Ord. 99-747)

Sec. 7-203. Additions or modifications.

The said adoptive ordinance is subject to the following additions or modifications:

(1) Whenever in Ordinance 169 the language specifically limits itself to application by Weld County, that language shall be considered to include application to and by the City of Fort Lupton. For instance, Article II on Page 2 of Ordinance 169 states "description of the County weed problem." Also, paragraph A states "weed species in Weld County to be controlled pursuant to weed control laws." These type of references will be considered to state "City of Fort Lupton" instead of "County" or "Weld County."

(2) Article V on liability shall state "this Ordinance 169 or the adoptive ordinance shall not be intended to create a civil cause of action against the Board of County Commissioners of Weld County, Colorado or the City of Fort Lupton, or any other person or entity that may administer the provisions of this undesirable plant management ordinance." (Ord. 99-747)

Sec. 7-204. Inconsistent provisions.

If inconsistencies exist between the provisions of Ordinance 169 adopted herein and other provisions of this Code, the more restrictive or protective provision shall prevail. For instance, if there are more prohibited weeds in Ordinance 169 than in other provisions of this Code, the weeds prohibited in other provisions and the weeds in Ordinance 169 shall also be prohibited. The provisions of Ordinance 169 and other provisions elsewhere in this Code shall be read together to provide the most comprehensive plan for managing undesirable plants for the benefit of the City and its citizens. (Ord. 99-747)

Sec. 7-205. Penalties.

It is unlawful for any person to violate any of the provisions adopted in this Article or fail to obey any order given pursuant to the authority of this Article or to interfere with officials performing their duties of inspection or abatement pursuant to this Article. Every person convicted of a violation of any provision adopted in this Article shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or not more than one (1) year in jail, or by both such fine and imprisonment. Prosecution under this Article does not prevent the City from pursuing any civil remedy for abatement or injunction. (Ord. 99-747)

Secs. 7-206—7-220. Reserved.

ARTICLE IX

Regulation of Destructive Rodent Pests

Sec. 7-221. Release of destructive rodent pests.

No person shall release destructive rodent pests into any part of the City unless such person has complied with all requirements for such release imposed by the State Wildlife Commission and obtained both the approval of that Commission and the prior approval, by resolution duly adopted, of the City Council. (Ord. 2001-786)

Sec. 7-222. Definition.

For purposes of this Article, destructive rodent pests means one (1) or more rodents, including but not limited to, prairie dogs, gophers and rats; and other such animals that pose a threat to residential, business, agriculture, horticulture or livestock concerns or to human health. (Ord. 2001-786)

Sec. 7-223. Violation.

If a person releases destructive rodent pests without the prior approval of the Wildlife Commission and the City Council, the City may, at its discretion, (a) require the person who released the destructive rodent pests to eradicate the destructive rodent pests or remove the destructive rodent pests from the City, or (b) remove or eradicate the destructive rodent pests, and (c) prosecute a person for a violation of this Section, and if convicted the Court may impose a fine and costs in an amount sufficient to compensate the City for its costs of removing or eradicating the destructive rodent pests from the City. (Ord. 2001-786)

Sec. 7-224. Nuisance.

Destructive rodent pests are hereby declared to be nuisances as regulated in Articles I and II of this Chapter and may be abated/removed as set forth therein by the City, or removed or eradicated by the owner of property on which they are found, by whatever means are lawfully available, without notice or permit. (Ord. 2001-786)

Secs. 7-225—7-240. Reserved.

ARTICLE X

Pit Bull Regulation

Sec. 7-241. Pit bulls prohibited.

It shall be unlawful for any person to own, keep, possess, maintain or harbor any pit bull or transport pit bulls through the City, except as provided in this Article. (Ord. 2003-810 §1; Ord. 2004-828, Pt. 1)

Sec. 7-242. Definitions.

For purposes of this Article, the following words shall have the meanings ascribed hereafter:

Pit bull is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Bull Terrier, Staffordshire Bull Terrier or any dog displaying the majority of the physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club for any of the above breeds. Any Colorado licensed veterinarian may attest to whether or not any dog meets this definition.

Secure temporary enclosure is a secure enclosure used for the purposes of transporting or holding a pit bull and which includes a top and bottom permanently attached to the sides except

for a door for removal of the pit bull. Such enclosure must be of such a material, and such door closed and secured in such a manner, that the pit bull cannot exit the enclosure on its own. (Ord. 2003-810 §1; Ord. 2004-828, Pt. 1)

Sec. 7-243. Exceptions.

(a) The prohibition in Section 7-241 shall not apply in the following enumerated circumstances in paragraphs (1) through (4), which shall be affirmative defenses to any prosecution under this Article. Failure of the owner to comply and remain in compliance with all of the terms of any applicable exception shall subject the pit bull to immediate impoundment and disposal pursuant to Subsection (e) of this Section and shall operate to prevent the owner from asserting such exception as a defense in any prosecution.

(1) The owner of a pit bull, who has applied for and received a pit bull license from the City for such pit bull, in accordance with Subsection (d) of this Section and all other applicable requirements of this Chapter, may keep the licensed pit bull within the City. The license will replace the regular dog license required elsewhere in this Chapter.

(2) Any licensed veterinarian and any licensed animal shelter may temporarily harbor and transport any pit bull for purposes of temporary shelter and/or treatment and enforcing the provisions of this Chapter.

(3) Any such veterinarian or shelter may temporarily hold any pit bull that it has received or otherwise recovered, but only for so long as it takes to conduct treatment or placement back to a licensed owner within the City or placement with an owner outside the City, or receive permission from the owner or the City to destroy or have destroyed the pit bull pursuant to the provisions of Subsection (e).

(4) A person without a City pit bull license may temporarily transport a pit bull through the City for treatment at a licensed veterinarian or directly through the City to a location outside the City if the pit bull is confined in a secure temporary enclosure as defined in Section 7-242.

(b) The owner of any previously licensed pit bull shall be allowed to keep such pit bull within the City as long as the owner applies for and receives an annual pit bull license for each calendar year. As a condition of renewal of a pit bull license, the owner shall at the time of application comply with or otherwise provide sufficient evidence that the owner is in compliance with all of the following regulations:

(1) The owner of the pit bull shall provide proof of rabies vaccination and shall pay the annual pit bull license fee of fifty dollars (\$50.00). The fee shall not be reduced for a license lasting less than one (1) calendar year.

(2) The owner of the pit bull shall keep current the license for such pit bull through annual renewal by January 15 of each year. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee who is at least twenty-one (21) years of age at renewal. A pit bull license tag will be issued to the owner at the time of issuance of the license. Such license tag shall be attached to the pit bull by means of a collar or harness and shall not be attached to any pit bull other than the pit bull for which the

license was issued. If the pit bull tag is lost or destroyed, a duplicate tag may be issued upon the payment of a five-dollar fee.

(3) The owner must be at least twenty-one (21) years of age as of January 1, 2003.

(4) The owner shall present to the City proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering any damage or injury which may be caused by the pit bull during the period covered by the pit bull license. The policy shall contain a provision requiring the insurance company to provide written notice to the City Administrator not less than fifteen (15) days prior to any cancellation, termination or expiration of the policy.

(5) The City shall maintain a file containing the identification method and names of licensed pit bulls and the names and addresses of the owners. The owner shall notify the City of any changes of address.

(6) At all times when a pit bull is at the property of the owner, the owner shall keep the pit bull confined on the owner's property, and in such a way as to prevent the dog from engaging in conduct described as an animal which creates a danger in Section 7-131. At all times when a pit bull is away from the property of the owner, the owner has the responsibility to see that the pit bull is either securely leashed and muzzled or in a secure temporary enclosure, as that term is defined in Section 7-242. Failure to prevent a licensed pit bull from leaving the owner's property leashed and muzzled or so contained, or engaging in dog fighting, or training for fighting purposes shall cause the license to be revoked, and the owner shall be so notified in writing. The owner shall not sell or otherwise transfer the pit bull to any person except a member of the owner's immediate family (over twenty-one [21] years of age) who will then become the owner and will be subject to all of the provisions of this Chapter. The owner shall notify the City within five (5) days in the event that the pit bull is lost, stolen, dies or has a litter. In the event of a litter, the owner must deliver the puppies to the City for destruction or permanently remove the puppies from the City and provide sufficient evidence of such removal by the time the puppies are weaned, but in no event shall the owner be allowed to keep in the City a pit bull puppy born after the effective date of the ordinance codified herein, that is more than sixteen (16) weeks old. Any pit bull puppies kept contrary to the provisions of this Section are subject to immediate impoundment and disposal.

(7) The owner shall have posted at each possible entrance to the owner's property where the pit bull is kept a conspicuous and clearly legible pit bull sign. Such pit bull sign must be at least eight (8) inches in rectangular dimensions and shall contain only the words "PIT BULL DOG" in lettering not less than two (2) inches in height.

(8) This Section is designed to allow existing owners of licensed pit bulls to keep them as long as they are promptly licensed and to prevent new pit bulls from being kept within the City. No new licenses will be issued more than sixty (60) days after the effective date of this Section. Existing owners may not replace existing pit bulls which are no longer in their possession.

(c) Notwithstanding any other provisions of this Code, the City is authorized to immediately impound any pit bull found in the City which does not fall within the exceptions listed above and the City may house or dispose of such pit bull in such manner as the City may deem appropriate, except as the procedures in Subsection (d) below otherwise require, without compensation to the owner.

(d) When the City has impounded any pit bull dog pursuant to Section (c), it shall notify (verbally, in writing or both) the owner, if known, and if the owner of such dog disputes the classification of such dog as a pit bull or claims to have a license, the owner of such dog may file a written petition with the City Administrator for a hearing concerning such no later than three (3) regular business days after impoundment. Such petition shall include the name and address, including mailing address, of the petitioner. The City Administrator will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than five (5) days prior to the date of the hearing. Where no written request from the owner for a hearing is received by the City Administrator within three (3) regular business days of impoundment, the pit bull shall be destroyed with no compensation to the owner. The hearing, if any, will be held before the City Administrator or an officer designated by the City Administrator. Any facts which the petitioner wishes to be considered shall be submitted under oath or affirmation either in writing or orally at the hearing. The City Administrator or hearing officer shall make a final determination whether the dog is a pit bull properly licensed as defined above. Such determination shall be considered a final order of the City Administrator subject to prompt judicial review/appeal by the Municipal Court Judge. The review shall be limited to whether or not the dog is a pit bull properly licensed or not. The Municipal Court shall have the authority to conduct such a review, and to issue orders regarding how the dog is to be kept and by whom during the review process. The appellant must file for this review within three (3) calendar days of the City Administrator's determination. The Municipal Court shall complete its review within thirty (30) days of the City Administrator's finding. If the dog is found to be a pit bull, it shall be euthanized (after the three-day waiting period to allow for a request for review to be filed, unless the owner waives a review), unless the owner produces evidence deemed sufficient by the City Administrator that the pit bull is to be permanently taken out of the City and the owner pays the cost of impoundment. If the dog is found not to be a pit bull, the dog shall be released to the owner. The procedures in this Subsection shall not apply and the owner is not entitled to such a hearing with respect to any dog which was impounded as the immediate result of conduct defined in Section 7-153. In those instances, the dog shall be handled and the procedures governed by the provisions of this Chapter. (Ord. 2003-810 §1; Ord. 2004-828, Pt. 1)

Secs. 7-244—7-260. Reserved.