

MUNICIPAL CODE
OF THE
CITY OF CREEDE, COLORADO

2008

(updated through 6-3-2014)

A Codification of the General Ordinances
of the City of Creede, Colorado

Published by:

AMERICAN LEGAL PUBLISHING CORPORATION
One West Fourth Street ✧ 3rd Floor ✧ Cincinnati, Ohio 45202-3909
1-800-445-5588 ✧ www.amlegal.com

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PREFACE

The City of Creede, a statutory Town, has published its Municipal Code in a format which features the following:

The *Table of Contents* is the table containing each chapter and article title, with reference to page location. Preceding each chapter is a chapter table of contents, also identifying each article by the subject name provided.

The *three-place section numbering system* places the chapter number first, followed by the article number and section number, separated by hyphens. Each section may be cited by the chapter, article and section number which are in sequence within each chapter.

The *open chapter and page numbering system* creates reserved chapter and page numbers for expansion or revision of the code without undue complication when changes are made to the code by supplementation.

The Disposition of Ordinances Table identifies the source for the contents of the code. This table provides ordinance numbers in chronological order and location by section number for the present code contents. Thus, if there is interest in determining whether an ordinance, or a portion thereof, is contained within the code, the Disposition of Ordinances Table will provide that information. The *Table of Up-to-Date Pages* lists all of the current pages through the most recent supplementation.

The *Index* provides references by common and legal terminology to the appropriate code sections. Cross references are provided with the Index when appropriate.

Supplements to the code provide regular updating of the code to maintain it as a current compilation of all the legislation, which has general and continuing effect. Without regular supplementation, the code would soon lose its usefulness as a complete source of the general law of the municipality. Supplementation is accomplished by the periodic publication of additions and amendments to the code.

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STATE OF COLORADO
CITY OF CREEDE, COLORADO

ORDINANCE NO. 347

AN ORDINANCE OF THE CITY OF CREEDE, A COLORADO TOWN, ADOPTING BY REFERENCE AND ENACTING A NEW MUNICIPAL CODE FOR THE CITY OF CREEDE; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE ADOPTION OF SECONDARY CODES BY REFERENCE; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

Now, therefore, Be It Ordained by the Board of Trustees of the City of Creede, a Colorado town, as follows:

Section 1. The Code entitled the Creede Municipal Code published by Colorado Code Publishing Company, consisting of Chapters I through 18, with Tables and Index, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before the adoption date of this Ordinance, which are inconsistent with the provisions of the Creede Municipal Code, to the extent of such inconsistency, are hereby repealed. The repeal established in this Section 2 shall not be construed to revive any ordinance or part thereof that had been previously repealed by any ordinance which is repealed by this Ordinance.

Section 3. The following codes were previously adopted by reference and incorporated in the Creede Municipal Code. One (1) copy of each is on file in the City Clerk's office:

(1) The *International Building Code* and *International Residential Code*, 2003 editions, published by the International Code Council, Inc., as adopted and amended in Section 18-2-10, et seq.

Section 4. The following codes are hereby adopted by reference and incorporated in the Creede Municipal Code. One (1) copy of each is on file in the City Clerk's office:

(1) The *Model Traffic Code for Colorado*, 2003 edition, published by the Colorado Department of Transportation, as adopted and amended in Section 8-1-10, et seq.;

(2) The *National Electrical Code*, 2002 edition, published by the National Fire Protection Association, as adopted and amended in Section 18-3-10, et seq.;

(3) The *International Mechanical Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-4-10, et seq.;

(4) The *International Plumbing Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-5-10, et seq.; and

(5) The *International Fire Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-6-10, et seq.

Section 5. The penalties provided by the Municipal Code of the City of Creede are hereby adopted as follows:

(1) Sec. 1-4-20. General penalty for violation. (Chapter 1, Article 4, General Penalty)

Any person who violates or fails to comply with any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case, including attorney fees. Every day any such violation of this Code, or any other ordinance or resolution of the City or any rule or regulation promulgated under the provisions of this Code, continues shall constitute a separate offense.

(2) Sec. 1-4-30. Application of penalties to juveniles. (Chapter 1, Article 4, General Penalty)

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age and who is subsequently convicted of or pleads guilty or nolo contendere to a violation of any provision of this Code, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code.

(3) Sec. 2-4-170. Contempt power. (Chapter 2, Article 4, Municipal Court)

(a) The Municipal Court shall have power to compel attendance of witnesses and to punish for contempt of court. When the Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a fine not to exceed one hundred dollars (\$100.00), or a jail sentence not to exceed five (5) days, and shall have all powers incident to a court of record in relation to the same.

(b) In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant in a petty offense case, including but not limited to a formal written complaint, arraignment and trial by jury.

(4) Sec. 6-1-40. Suspension or revocation; fine. (Chapter 6, Article 1, Alcoholic Beverage Licenses)

(a) Whenever a decision of the Board of Trustees, acting as the Local Licensing Authority (hereinafter "Authority"), suspending a retail license for fourteen (14) days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the suspension, petition the Authority for permission to pay a fine in lieu of having his or her retail license suspended for all or part

of the suspension period. Upon the receipt of the petition, the Authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made, which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

(1) That the public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;

(2) That the books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and

(3) That the retail licensee has not had his or her license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

(b) The fine accepted shall be equivalent to twenty percent (20%) of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; except that the fine shall be not less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00).

(c) Payment of any fine pursuant to the provisions of this Section shall be in the form of cash, certified check or cashier's check made payable to the City Clerk and shall be deposited in the General Fund of the City.

(d) Upon payment of the fine pursuant to this Section, the Authority shall enter its further order permanently staying the imposition of the suspension.

(e) In connection with any petition pursuant to this Section, the authority of the Authority is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(f) If the Authority does not make the findings required in Subsection (a) above and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Authority.

(5) Sec. 7-3-30. Abatement. (Chapter 7, Article 3, Refuse Regulations)

(a) Whenever the Board of Trustees shall direct, the City Manager or City Clerk shall immediately thereafter notify any owner of property by certified, return-receipt-requested mail, his or her agent or any person having charge of such property, in writing, that an order has been made by the Board of Trustees requiring the removal of any accumulated refuse from such property or premises within thirty (30) days after service of notice. If such property owner, agent or person having charge of such property does not remove such refuse in accordance with the requirement of such order, the Board of Trustees may order that such refuse be removed by the City Manager or other Trustee and assess the cost thereof against the property or premises.

(b) The amount so assessed shall be a lien upon such property until the same is paid; provided, however, that in case of failure to pay such assessment within ten (10) days after the same is made, the City Clerk shall cause a notice of such assessment to be given to the owner of such property by

publishing in a newspaper in the City for two (2) consecutive weeks, a notice to such property owner of the amount assessed against his or her property, and shall designate a time and place when the Board of Trustees will hear any objections as to the adjustment and correctness of the amount so assessed. If such assessment is not paid within ten (10) days after the time fixed for hearing such objections, and unless the same are sustained, the City Clerk shall certify such assessment to the County Treasurer, to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by state law.

(6) Sec. 7-4-40. Charges for City collection services. (Chapter 7, Article 4, Garbage Collection)

(a) The Board of Trustees shall, by resolution, establish charges for collection service under this Article, prescribe the time and manner of payment of such charges and adopt measures designed to enforce the payment thereof that, in its discretion, are necessary or desirable. Such resolution, when adopted, shall be of the same force and effect as if incorporated in this Section.

(b) The amount of charges for garbage, rubbish, waste material and ashes collection service shall be a lien upon the property served until the same is paid. In case of failure to pay the established charges for garbage, rubbish, waste material and ashes collection service by the owner or person having the occupancy, control or management of any premises, within sixty (60) days after the time prescribed for payment of such charges by the Board of Trustees, the City Clerk shall cause a notice of such charge to be given to the owner of such property by publishing in a newspaper in the City, for two (2) successive weeks, a notice to such property owner of the amount of charges assessed against his or her property and that, if such charges are not paid within ten (10) days thereafter, the City Clerk shall certify such charges as assessed to the County Treasurer, to be placed by him or her on such tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by state law.

(7) Sec. 8-2-30. Snowmobile use restrictions. (Chapter 8, Article 2, Snowmobile Regulations)

(a) Location.

(1) The use of snowmobiles within the City shall not be allowed, except as follows:

a. Along Fifth Street, Third Street, Wall Street, Loma Avenue and Capitol Avenue as a means of entering and exiting the City limits. Travel on the above streets for any other purpose shall be illegal. All routes from residences to the above exit streets shall be the most direct route.

b. During emergencies as declared by the Mayor or, in his or her absence, the Chief of Police or Fire Chief, snowmobiles may be used for the purposes designated by the Mayor, Chief of Police or Fire Chief.

(2) In addition to the above, a snowmobile may be operated on streets and highways under the jurisdiction of the City only when such operation is authorized by special ordinance or addition to this Code and appropriate notice is given thereof, and then only in the manner and on such streets prescribed by such ordinance consistent with the provisions of state law.

(b) Speed. The maximum speed of snowmobiles within the City limits shall be fifteen (15) miles per hour.

(c) Right-of-way. Snowmobiles shall yield to all other street vehicles, all of which shall have the right-of-way.

(d) Masts. All snowmobiles operating within the City limits shall have a five-foot mast attached to the snowmobile in a vertical position, with thirty (30) square inches of fluorescent flagging at the highest point of such mast.

(e) Hours. Snowmobiles shall not be operated within the City except during daylight hours, without first obtaining permission from the Chief of Police.

(f) Rallies. No rallies shall be held within the City without first obtaining written permission from the Chief of Police.

(g) Penalty. Violations of any provision of this Section shall be misdemeanors and punishable by a fine of not more than one hundred dollars (\$100.00).

(8) Sec. 10-8-100. Possession of cannabis. (Chapter 10, Article 8, Alcoholic Beverages and Drugs)

(a) For the purposes of this Section, the term *cannabis* shall include all parts of the plant *Cannabis sativa L.*, whether growing or not; the seed thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt derivative, mixture or preparation of such plant, its seeds or resin; but shall not include the mature stalks of such plant, fiber produced from its stalks, oil or cake, or the sterilized seed of such plant, which is incapable of germination. The term *cannabis concentrate* means hashish, tetrahydrocannabinols or any alkaloid, salt derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinols.

(b) It is unlawful to possess one (1) ounce or less of cannabis or cannabis concentrate, and upon conviction thereof, or plea of guilty or no contest thereto, punishment shall not be by imprisonment, but shall be by a fine of not more than one hundred dollars (\$100.00).

(c) It is unlawful openly and publicly to display or consume one (1) ounce or less of cannabis concentrate, and upon conviction thereof, or a plea of guilty or no contest thereto, punishment shall be as set out in Section 1-4-20 of this Code.

(d) The provisions of this Section shall not apply to any person who possesses or uses cannabis or cannabis concentrate pursuant to the Dangerous Drugs Therapeutic Research Act.

(9) Sec. 10-10-50. Penalties. (Chapter 10, Article 10, Noise)

(a) First offense: A first offense of any provision of this Article by a person shall result in a warning.

(b) Second offense: A second offense of any provision of this Article by a person shall be punishable by a fine of one hundred dollars (\$100.00)

(c) Third and subsequent offenses: A third and subsequent offense during a twelve-month period from the date of the first offense shall be punishable by a fine of two hundred fifty dollars (\$250.00). Each subsequent offense within the twelve-month period shall be punishable by a fine of five hundred dollars (\$500.00).

(d) Payment deadline: All fees must be paid within twenty (20) days of receipt of notice. If fees are paid after the twenty (20) days, an additional fee of ten dollars (\$10.00) will be charged.

(10) Sec. 11-1-20. Snow and ice removal from sidewalks. (Chapter 11, Article 1, Streets and Sidewalks)

(a) Purpose and scope. The purpose of this Article is to require, according to the terms hereof, responsible parties to remove snow and ice from sidewalks immediately adjacent to structures owned or occupied by them and to require such removal within a specified period of time.

(b) Definitions. The following definitions shall apply herein:

Period of time means a twenty-four-hour period from the point in time that snow, as defined herein, commences to fall or that point in time when an accumulation of snow creates a hazardous condition, whichever comes sooner.

Responsible party means that person, partnership, corporation or other legal entity against which action may be taken for violation of this Article. *Responsible party* may be, but not by way of limitation, the owner, lessor, lessee, sub-lessee or occupant of any structure. *Responsible party* shall also mean that person owning, leasing, occupying or otherwise claiming a legal interest in and to a particular lot, building or parcel within the City, and which lot, building or parcel has a sidewalk adjacent to, in on any side and on any street within the community.

Sidewalk means any structure of any material, which had been placed upon the ground or otherwise installed adjacent to any street within the boundaries of the City, which is utilized as a sidewalk, for the purpose of permitting the safe passage of persons on foot about the community, adjacent to said street.

Snow means any form of precipitation in the frozen form, be it snow, sleet, hail, freezing rain or a build-up and accumulation of any of the foregoing, causing a hazardous condition to persons attempting to use the sidewalk.

(c) Penalty.

(1) It shall be unlawful for any person, firm, corporation or responsible party to permit the accumulation of snow on any sidewalk within the City, for a period of time in excess of that set forth herein.

(2) Any person violating any provision of this Section shall be guilty of a misdemeanor and will be punished in accordance with the provisions of Section 1-4-20 of this Code.

(d) Declaration of nuisance. The Board of Trustees hereby declares that the accumulation of snow on any sidewalk within the City constitutes a public nuisance and may, therefore, in addition to the penalty provision set forth above, cause such accumulation to be removed from any offending sidewalk. The cost of such removal shall be billed to the owner of such property or the responsible party and shall be treated as a portion of that person's utility indebtedness; and for nonpayment, such public utilities may be terminated until payment is made in full.

(11) Sec. 11-2-50. Penalties. (Chapter 11, Article 2, Excavations)

Any violations of this Article shall be punishable in accordance with the provisions of Section 1-4-20 of this Code. In addition, the City may seek an injunction against continued operations which violate this Article.

(12) Sec. 13-2-20. Limitation of liability. (Chapter 13, Article 2, Ownership and Operation of Facilities)

(a) It is expressly stipulated that no claim for damages shall be made against the City by reason of the following: blockage in the system causing the backup of effluent; damage caused by "smoking" of lines to determine drainage connections to City lines; breakage of water or sewer main lines by City personnel; interruption of water or sewer service and the conditions resulting therefrom; breaking of any collection or service line, pipe, valve or meter by any employee of the City; failure of the water supply; shutting off or turning on water; making of connections or extensions; damage caused by water running or escaping from open or defective faucets; burst service lines and other facilities not owned by the City; damage to water heaters, boilers or other appliances resulting from shutting water off, or for turning it on, or from inadequate or sporadic pressures; or for doing anything to the systems of the City deemed necessary by the Board of Trustees or its agents.

(b) The City shall have no responsibility for notification to customers of any of the foregoing conditions. The City reserves the right to discontinue temporarily service to any property at any time for any reason deemed necessary or appropriate by the Board of Trustees. The City shall have the right to revoke service to any property for violations of this Chapter in accordance with the procedures set forth in this Chapter.

(13) Sec. 13-3-60. Cancellation of application. (Chapter 13, Article 3, Conditions of Use of Utility Systems)

The City reserves the right to revoke any prior approval of an application before service has been provided and, thereafter, for any violation of this Chapter.

(14) Sec. 13-3-70. Moved or destroyed buildings. (Chapter 13, Article 3, Conditions of Use of Utility Systems)

When buildings are moved or destroyed, the original tap authorization shall terminate, and no credit shall be authorized for System Development Fees paid previously with respect to said building. However, the original tap shall remain in good standing, provided that uninterrupted payment of the City's minimum service charge (as the same may be amended from time to time) is made. If payment of the minimum service charge ceases for any reason, said tap shall be in violation of this Chapter, and the tap shall be revoked. Nonpayment within thirty (30) days of the billing shall be considered cessation of payment of the minimum service charge.

(15) Sec. 13-3-80. Change in customer's equipment, service or use of property. (Chapter 13, Article 3, Conditions of Use of Utility Systems)

(a) No change in the customer's equipment, service or use of property served shall be made without the prior notification of and approval by the City. Any such change which, in the opinion of the City, will increase the burden placed on the City's utility systems by the customer shall require a

redetermination of the System Development Fees and monthly service charge and a payment by the customer of any additional System Development Fees and monthly service charge resulting from the redetermination.

(b) Any violation of Section 13-3-90 below shall result in the assessment of an unauthorized connection fee, and the City shall take those steps authorized by this Chapter and state law regarding the collection of said fees.

(c) Any customer believed to have changed the equipment, service or use of his or her property in violation of this Section shall be notified of such belief by the City, shall be notified of the City's intent to assess any additional System Development Fees, service or unauthorized connection fees and shall be afforded ten (10) days in which to respond to the City's notice. Failure to respond as required herein within the ten-day period shall be deemed to establish the City's belief concerning the nature and extent of the change, and such additional System Development Fees, service and unauthorized connection fees as are deemed appropriate by the City shall be assessed against the property in question and shall be collected as provided under this Chapter and state law. To defer the collection of said fees, and as a prerequisite to the right to hearing as provided for and described in Article 7 of this Chapter, any response by the customer must, in addition to being provided in ten (10) days, include permission to make such inspection of the property in question as the City Manager deems necessary to clearly establish the nature of equipment, service and use of the property in question.

(16) Sec. 13-4-10. Unauthorized tampering with systems. (Chapter 13, Article 4, Water, Storm Drainage and Sewer Systems)

(a) No unauthorized person shall uncover, use, alter, disturb, make any connection with or opening onto, use, alter or disturb the water, storm drainage or sewer system without first obtaining a written permit from the City. Unauthorized uses of the City's systems include, but are not limited to, an unauthorized turn-on or turn-off of water, storm drainage or sewer service, or tampering or in any way modifying any meter, even though the same may be performed on a privately owned and maintained service line.

(b) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any portion of the City's system.

(c) Any person who violates the provisions of this Section shall be prosecuted to the full extent of state law.

(d) Any person violating any of the provisions of this Chapter shall become liable to the City for any expense, loss or damage occasioned by reason of such violation; and, upon nonpayment thereof, at the demand of the City Manager, shall be assessed a penalty in an amount set forth in the City's fee schedule. Said penalty shall be a lien upon the violator's property, as allowed by Section 32-1-1001, C.R.S., or a lien upon the property concerning which the violator was providing services at the time of the violation in question, whichever the City Manager deems appropriate.

(17) Sec. 13-4-80. Construction and cleaning of grease, oil and sand traps. (Chapter 13, Article 4, Water, Storm Drainage and Sewer Systems)

Grease, oil and sand interceptors shall be provided at the sole cost and expense of the customer when, in the opinion of the City Manager, they are necessary for the proper handling of liquid wastes containing grease, oil, etc., in excessive amounts, or any flammable wastes, sand or other harmful

ingredients. All interceptors shall be located as to be readily available and accessible for cleaning and inspection. Grease and oil interceptors shall be in an accessible location for maintenance and inspection and shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be watertight and, if necessary as determined by the City, gastight and vented. Where installed, all grease, oil and sand interceptors shall be maintained by the customer at his or her expense, in continually efficient operation at all times. The City requires a monthly or periodic cleaning and pumping of any grease traps as approved by the City Manager. Periodic inspections shall be made of sand and grease traps and interceptors, and, in the event the customer is in violation of this Chapter, the customer shall be liable for payment of a penalty in an amount as set forth in the City's fee schedule.

(18) Sec. 13-4-110. Enforcement. (Chapter 13, Article 4, Water, Storm Drainage and Sewer Systems)

(a) The responsibility of cleaning and maintaining all grease interceptors and sand and oil traps shall be the customer's and/or owner's. Grease interceptors and sand and oil traps shall be inspected periodically by the City's maintenance contractor, and, if not properly maintained, the City will initiate procedures to obtain compliance with this Chapter.

(b) The charge for these inspections to the customer and/or owner shall be a direct pass-on of the expense to the City and shall be billed directly by the City for all costs incurred by the City in inspecting the property.

(c) Discharge of sewage in any manner in violation of this Chapter is hereby declared a public nuisance and may be corrected or abated as directed by the City.

(d) Whenever a discharge of sewage or the operation of a grease interceptor or sand or oil trap is in violation of the provisions of this Chapter or otherwise causes or threatens to cause a condition of contamination, pollution or nuisance, the City will issue a written notice to correct the practice within seventy-two (72) hours. If the practice is not corrected within such time, the City may notify the Colorado Department of Public Health and Environment and turn off water service or effect disconnection of the sanitary sewage service line from the City's system, until such time as the City has received adequate assurances that any and all violations of this Chapter will cease and will not occur in the future. In addition, all of the costs of the aforementioned proceedings shall be charged against the property and, until paid, shall constitute a perpetual lien against the property.

(e) When a discharge of waste causes an obstruction, damage or any other impairment to the City facilities, the City may assess a charge against the customer and/or owner for the work required to clean or repair the facility and add such charge to the customer's and/or owner's sewer service charge. The City shall have such remedies for the collection of such costs as it has for the collection of sewer service charges, and such costs, until paid, shall constitute a perpetual lien against the property.

(f) Any person who intentionally or negligently violates any provisions of this Chapter or conditions set forth in permits duly issued shall be liable civilly to the City. The City may petition the District Court to impose, assess and recover such sums.

(g) In order to effect its powers, the City may enter upon private property for the purpose of inspection and maintenance of sanitary and waste disposal facilities and may terminate service to property in which a violation of any of this Chapter is found to exist. Prior to termination of service,

the City shall notify, in writing, the owner and tenant, if any, of such property that service is intended to be so terminated. Such notice shall be mailed to the customer at the address of record, and a copy shall be delivered to the owner and tenant or posted conspicuously on the property. The notice shall state the date of proposed termination of service and the reasons therefor. In the event of an emergency, the City may terminate service without prior notice; provided, however, that subsequent notice of the termination shall be delivered as set forth herein.

(h) The prohibitions against unauthorized discharge of wastes proscribed in this Section include the dumping or pumping of wastes directly into the City's manholes without the prior written consent of the City Manager.

(19) Sec. 13-6-140. Penalty for late payment. (Chapter 13, Article 6, Rates and Charges)

(a) Utility bills forty-five (45) days past due will be assessed a one-percent monthly fee on any accrued outstanding balance. There will also be a processing fee assessed the first month past due and, thereafter, an additional fee per month as long as the bill is outstanding.

(b) At sixty (60) days past due, the customer will be sent a "water shut-off" notice, allowing him or her thirty (30) days to bring his or her balance current or make arrangements. All monthly billing shall continue with all delinquent fees being assessed.

(c) At ninety (90) days past due, the water service will be shut off, and the delinquent utility bill shall be collected with the authority and procedures outlined in Section 13-6-150 below. All monthly billing shall continue with all delinquent fees being assessed. The water shall not be turned back on until all past due charges are brought current (including turn-off and -on fees).

(d) Furthermore, if a public utility bill goes unpaid for twelve (12) consecutive months, the water connection (tap) will be considered abandoned. The water shall not be turned back on until all past due charges are brought current and a new water connection (tap) fee is paid in full.

(20) Sec. 13-6-150. Penalties for liens and foreclosure proceedings. (Chapter 13, Article 6, Rates and Charges)

(a) By authority of Section 31-20-105, C.R.S., any municipality may cause any or all delinquent charges levied to be certified to the County Treasurer and be collected and paid by the County Treasurer in the same manner as taxes are authorized by this Chapter.

(b) Each water charge levied shall be a lien therewith, and if the same is not paid within ninety (90) days after it becomes due and payable, the City Manager shall certify such unpaid rates or charges to the County Treasurer, to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten-percent penalty thereon to defray the cost of collection. The same shall be collected and paid over by the County Treasurer to the City in the same manner as taxes are authorized to be paid by all laws in the State. Such delinquent water charges may also be certified to the Board of Trustees or County Commissioners and shall become a lien upon the real property served by such water connection and collected in the same manner as though they were part of the taxes.

(c) Except as specifically amended herein or in conflict with any provisions hereof, all of the provisions of Ordinance No. 183 and Ordinance No. 184, as amended, and any subsequent ordinances or resolutions amending such ordinances, shall remain in full force and effect.

(21) **Sec. 18-1-160. Removal by City. (Chapter 18, Article 1, Division 2, Balcony Permits)**

If the record owner fails to comply with the order to remove the balcony, the Board of Trustees may cause the balcony to be removed and charge the costs thereof, plus up to fifteen percent (15%) of such costs for administration, to the record owners of the adjacent property. If any record owner fails or refuses to pay, when due, any charges imposed under this Section, the Board of Trustees may, in addition to taking other collection remedies, certify any unpaid charges, including interest, to the County Treasurer, to be levied against the adjacent property for collection by the County in the same manner as delinquent general taxes upon such adjacent property are collected.

(22) **Sec. 18-2-50. Penalties and fees. (Chapter 18, Article 2, Building and Residential Codes)**

(a) It is unlawful for any person to violate any of the provisions of the codes adopted herein.

(b) Every person convicted of a violation of any provision adopted herein shall be allowed five (5) business days to rectify the violation. If the violation is not rectified in five (5) days, a cease and desist order will be issued, and a fine not exceeding one hundred (\$100.00) dollars for each day of violation from that date shall be imposed.

(c) The fees applicable to codes shall be amended by resolution of the Board of Trustees.

Section 6. Additions or amendments to the Code, when passed in the form as to indicate the intention of the City to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 7. Ordinances adopted after this Ordinance that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to those provisions of the Code.

Section 8. This Ordinance shall become effective thirty (30) days after publication thereof.

INTRODUCED, PASSED, APPROVED AND ADOPTED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE CITY OF CREEDE, A COLORADO TOWN, ON NOVEMBER 12, 2008.

CITY OF CREEDE
(signature) _____
Mayor, Rex M. Shepperd Date

ATTEST:
(signature) _____
City Clerk, Pamela J. Wilson Date

(SEAL)

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CHAPTER 1

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ARTICLE 1

Code

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

The published code known as the *Creede Municipal Code*, published by Colorado Code Publishing Company, of which one (1) copy is now on file in the office of the City Clerk and may be inspected during regular business hours, is enacted and adopted by reference as a primary code and incorporated herein as if set out at length. This primary code has been promulgated by the City of Creede, Colorado, as a codification of all the ordinances of the City of Creede of a general and permanent nature through Ordinance No. 347, for the purpose of providing an up-to-date code of ordinances, properly organized and indexed, in published form for the use of the citizens and officers of the City. (Ord. 347 §1, 2008)

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

This Code constitutes a compilation, revision and codification of all the ordinances of the City of Creede, Colorado, of a general and permanent nature, and shall be known as the *Creede Municipal Code*. (Prior code 1-1-1; Ord. 347 §1, 2008)

Sec. 1-1-30. Code supersedes prior ordinances.

This Code shall supersede all other municipal codes consisting of compilations of general and permanent ordinances and parts of ordinances passed by the Board of Trustees. (Ord. 347 §1, 2008)

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

Secondary codes may be adopted by reference, as provided by state law. (Ord. 347 §1, 2008)

Sec. 1-1-50. Repeal of ordinances not contained in Code.

All existing ordinances and portions of ordinances of a general and permanent nature which are inconsistent with any ordinance included in the adoption of this Code are hereby repealed to the extent of any inconsistency therein as of the effective date of the ordinance adopting this Code, except as hereinafter provided. (Ord. 347 §1, 2008)

Sec. 1-1-60. Matters not affected by repeal.

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1-1-50 of this Code shall not affect any offense committed or act done, any penalty or forfeiture incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed. (Ord. 347 §1, 2008)

Sec. 1-1-70. Ordinances saved from repeal.

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

(1) Creating, opening, dedicating, naming, renaming, vacating or closing specific streets, alleys and other public ways.

(2) Establishing the grades or lines of specific streets, sidewalks and other public ways.

(3) Creating specific sewer and paving districts and other local improvement districts.

(4) Authorizing the issuance of general obligation or specific local improvement district bonds.

(5) Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.

(6) Annexing territory to or excluding territory from the City.

(7) Dedicating or accepting any specific plat or subdivision.

(8) Calling or providing for a specific election.

(9) Authorizing specific contracts for purchase of beneficial use of water by the City.

(10) Approving or authorizing specific contracts with the State, with other governmental bodies or with others.

(11) Authorizing a specific lease, sale or purchase of property.

(12) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.

(13) Granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys.

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

(15) Appropriating money.

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

(17) Relating to salaries.

(18) Amending the Official Zoning Map. (Ord. 347 §1, 2008)

Sec. 1-1-80. Changes in previously adopted ordinances.

In compiling and preparing the ordinances of the City for adoption and revision as part of this Code, certain grammatical changes and other changes were made in one (1) or more of said ordinances. It is the intention of the Board of Trustees that all such changes be adopted as part of this Code as if the ordinances so changed had been previously formally amended to read as such. (Ord. 347 §1, 2008)

ARTICLE 2

Definitions and Usage

Sec. 1-2-10. Definitions.

The following words and phrases, whenever used in the ordinances of the City of Creede and/or any codification of the same, shall be construed as defined in this Section, unless a different meaning is expressly provided in any section of this Code or unless such definition is inconsistent with the manifest intent of the specific ordinance:

Board of Trustees means the City Council of the City of Creede.

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

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

County means the County of Mineral, Colorado.

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

Day means the period of time between any midnight and the midnight following.

Daytime means the period of time between sunrise and sunset.

In the City means all territory over which the City has, or shall hereafter acquire, the jurisdiction for the exercise of its police powers or other regulatory powers.

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

May is permissive.

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

Month means a calendar month.

Nighttime means the period of time between sunset and sunrise.

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

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

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

Person means a natural person, firm, partnership, corporation, association, joint venture, joint stock company, club, company, business, trust or other organization acting as a group or unit, or the manager, lessee, agent, servant, officer or employee of any of them.

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

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

Property includes real property and tangible and intangible personal property.

Public way includes any street, alley, boulevard, parkway, highway, sidewalk, trail, right-of-way or other public thoroughfare.

Real property includes lands, tenements and hereditaments.

Shall and *must* are both mandatory.

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

State means the State of Colorado.

Street includes any public way, highway, street, avenue, boulevard, parkway, alley, lane, court, place, square, curb or other public thoroughfare in the City which has been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State, and each of such words shall include all of them.

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

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

Year means a calendar year, unless otherwise expressed. (Prior code 1-1-2; Ord. 347 §1, 2008)

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

Except as provided by applicable state law, the time within which an act is to be done shall be computed by excluding the first and including the last day; however, if the time for an act to be done shall fall on a Saturday, Sunday or legal holiday, the act shall be done upon the next regular business day following such Saturday, Sunday or legal holiday. (Prior code 1-1-2; Ord. 347 §1, 2008)

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

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the City, or his or her designated representative. (Ord. 347 §1, 2008)

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

All words and phrases shall be construed and understood according to the common and

approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning. (Prior code 1-1-2; Ord. 347 §1, 2008)

Sec. 1-2-50. Grammatical interpretation.

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

(1) Any gender includes the other genders.

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

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

(4) Words and phrases not specifically defined shall be construed according to the context and approved usage of the language. (Prior code 1-1-2; Ord. 347 §1, 2008)

ARTICLE 3

General

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

Chapter and Article titles, headings, numbers and titles of sections and other divisions in this Code or in supplements made to this Code are inserted in this Code, may be inserted in supplements to this Code for the convenience of persons using this Code, shall not be deemed to in any way restrict, qualify or limit the effect of the provisions set forth and contained in such section or subsections, and are not part of this Code. (Prior code 1-1-2; Ord. 347 §1, 2008)

Sec. 1-3-20. Authorized acts.

When an ordinance or this Code requires an act to be done, which may as well be done by an agent, designee or representative as the principal shall construe, such requirement shall be construed to include all such acts performed when done by an authorized agent, designee or representative. (Prior code 1-1-2; Ord. 347 §1, 2008)

Sec. 1-3-30. Prohibited acts.

Whenever in this Code or any City ordinance any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Ord. 347 §1, 2008)

Sec. 1-3-40. Timeliness of action.

In all cases where any ordinance or this Code requires any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty, or for compliance with such notice. (Prior code 1-1-2; Ord. 347 §1, 2008)

Sec. 1-3-50. Purpose of Code.

The provisions of this Code, and all proceedings under them, are to be construed with a view to affect their objectives and to promote justice. (Ord. 347 §1, 2008)

Sec. 1-3-60. Repeal of ordinances.

The repeal of any provision of this Code shall not affect any right which has accrued, any duty imposed, any penalty incurred, nor any action or proceedings as commenced under or by virtue of the provision repealed, nor the tenure

of an office of any person holding office at the time when such repeal shall take effect. The repeal of any provision of this Code or of an ordinance shall not repeal the repealing clause of such ordinance or revive any provision or any ordinance theretofore repealed or superseded. (Prior code 1-1-6; Ord. 347 §1, 2008)

Sec. 1-3-70. Publication of ordinances.

All ordinances as soon as possible after their adoption shall be recorded in a book kept for that purpose and authenticated by the signature of the Mayor and City Clerk. All ordinances of a general or permanent nature, and those imposing any fine, penalty or forfeiture, shall be published in the *Mineral County Miner*. Such ordinances shall not take effect until thirty (30) days after such publication, except for ordinances calling for special elections or necessary for the immediate preservation of the public peace, health and safety and containing the reasons making the same necessary in a separate section. The excepted ordinances shall take effect in five (5) days. The reasons making the ordinance necessary for the immediate preservation of the public peace, health and safety shall be set forth in a separate section. (Prior code 2-2-2; Ord. 221 §1, 1980; Ord. 347 §1, 2008)

Sec. 1-3-80. Amendments to Code.

Ordinances and parts of ordinances of a permanent and general nature, passed or adopted as required by state law after the adoption of this Code, may be passed or adopted either in the form of amendments to this Code or without specific reference to this Code. However, in either case, all such ordinances and parts of ordinances shall be deemed amendments to this Code, and all of the substantive, permanent and general parts of said ordinances and changes made thereby shall be inserted and made in this Code as provided in Section 1-3-90 hereof. (Prior code 1-1-3; Ord. 347 §1, 2008)

Sec. 1-3-90. Supplementation of Code.

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

(b) It shall be the duty of the City Clerk, or someone authorized and directed by the City Clerk, to keep up to date one (1) certified copy of the book containing this Code, to be filed in the office of the City Clerk for the use of the public. (Ord. 347 §1, 2008)

Sec. 1-3-100. Examination of Code.

The Mayor, Mayor Pro tem or appointed Trustee and City Clerk shall carefully examine at least one (1) copy of the Code adopted by this ordinance to see that it is a true and correct copy of this Code. Similarly, after each supplement has been prepared, printed and inserted in this Code, the Mayor, Mayor Pro tem or appointed Trustee and City Clerk shall carefully examine at least one (1) copy of this Code as supplemented. The copy of this Code as originally adopted or amended shall constitute the permanent and general ordinances of the City and shall be so accepted by the courts of law, administrative tribunals and all others concerned. (Ord. 347 §1, 2008)

Sec. 1-3-110. Copy of Code on file.

At least one (1) up-to-date copy of this Code shall be kept in the office of the City Clerk at all times, and such Code may be available for public use in the office of the City Clerk for inspection by any interested person at any time during regular office hours. In addition, the City Clerk shall keep a master copy, which shall be the

Official Code of the City of Creede. Such Code may not be removed from the City Clerk's office except upon proper order of a court of law. (Prior code 1-1-8; Ord. 347 §1, 2008)

Sec. 1-3-120. Sale of Code books.

Copies of this Code book may be purchased from the City Clerk upon the payment of a fee to be set by resolution of the Board of Trustees. (Ord. 347 §1, 2008)

Sec. 1-3-130. Severability.

The provisions of this Code are hereby declared to be severable, and if any section, provision or part thereof shall be held unconstitutional or invalid, the remainder of this Code shall continue in full force and effect, it being the legislative intent that this Code would have been adopted even if such unconstitutional or invalid matter had not been included therein. It is further declared that, if any provision or part of this Code, or the application thereof to any person or circumstances, is held invalid, the remainder of this Code and the application thereof to other persons shall not be affected thereby. (Prior code 1-1-4; Ord. 347 §1, 2008)

ARTICLE 4

General Penalty

Sec. 1-4-10. Violations.

It is a violation of this Code for any person to do any act, which is forbidden or declared to be unlawful or to fail to do or perform any act required in this Code. (Ord. 347 §1, 2008)

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

Any person who violates or fails to comply with any provision of this Code for which a different penalty is not specifically provided shall,

upon conviction thereof, be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case, including attorney fees. Every day any such violation of this Code, or any other ordinance or resolution of the City or any rule or regulation promulgated under the provisions of this Code, continues shall constitute a separate offense. (Prior code 1-1-7; Ord. 347 §1, 2008)

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

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age and who is subsequently convicted of or pleads guilty or nolo contendere to a violation of any provision of this Code, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code. (Ord. 347 §1, 2008)

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

Any person who shall alter, change or amend this Code, except in the manner prescribed in this Chapter, or who shall alter or tamper with this Code in any manner so as to cause the ordinances of the City to be misrepresented thereby, shall, upon conviction thereof, be punishable as provided by Section 1-4-20 hereof. (Ord. 347 §1, 2008)

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

Any person who shall violate any provision of any ordinance of a permanent and general nature passed or adopted after adoption of this Code, either before or after it has been inserted in this Code by a supplement, shall, upon conviction thereof, be punishable as provided by Section 1-4-20 unless another penalty is specifically provided for the violation. (Ord. 347 §1, 2008)

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

Whenever in this Code any act or omission is made unlawful, it is also unlawful to cause, allow, permit, aid, abet or suffer such unlawful act or omission. Concealing or in any manner aiding in the concealing of any unlawful act or omission is similarly unlawful. (Ord. 347 §1, 2008)

ARTICLE 5

Inspections

Sec. 1-5-10. Entry.

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

inspector is unable to obtain permission of such occupant or owner to enter such building or premises, the public inspector is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Ord. 347 §1, 2008)

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

Law enforcement officers certified with the State, members of the Fire Department, other fire departments operating under a mutual assistance agreement or automatic aid agreement with the City, certified emergency medical technicians and paramedics during the course of employment with a governmental agency are hereby granted the authority to enter private residences within the City without invitation from the occupant of the residence at any time such persons have reasonable grounds to believe a medical emergency is in progress within the subject premises and the occupant of such premises is incapable of consenting to the entry because of such medical emergency. (Ord. 347 §1, 2008)

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

Unauthorized entry pursuant to Section 1-5-20 shall be permissible only after the individuals seeking entry have announced both their purpose and authority in a loud and conspicuous voice and have waited a reasonable period of time for the occupant to respond before making entry. (Ord. 347 §1, 2008)

ARTICLE 6

Seal

Sec. 1-6-10. Corporate seal.

A seal, the impression of which shall contain in the center the word "Seal" and around the outer edge the words "City of Creede, Colorado," shall be and hereby is declared to be the Seal of the City. (Ord. 347 §1, 2008)

CHAPTER 2

Administration

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Sec. 2-1-20 Write-in candidate affidavit
Sec. 2-1-30 Cancellation of election
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Sec. 2-3-30 Oath of office; bond
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 Sec. 2-10-40 General rules
 Sec. 2-10-50 Voting

ARTICLE 1**Elections****Sec. 2-1-10. Conduct of elections.**

(a) All elections shall be held and conducted in accordance with the Colorado Municipal Election Code of 1965. The City may by ordinance determine to follow all or part of the provisions of the Uniform Election Code for any election.

(b) The City hereby adopts Section 1-7.5-101, et seq., C.R.S., as part of this Code to authorize the conductance of mail ballot elections.

(c) The Board of Trustees shall have the authority to approve the conductance of a mail ballot election by duly passing a resolution ninety (90) days prior to the date of the scheduled election. (Ord. 347 §1, 2008; Ord. 354 §§1, 2, 2009)

Sec. 2-1-20. Write-in candidate affidavit.

No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the City Clerk by the person whose name is written in prior to twenty (20) days before the day of the election, indicating that such person desires the office and is qualified to assume the duties of that office if elected. (Prior code 2-7-1; Ord. 286 §1, 1992; Ord. 347 §1, 2008)

Sec. 2-1-30. Cancellation of election.

(a) If the only matter before the voters is the election of persons to office and if, at the close of business on the nineteenth day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent as set forth in Section 2-1-20, the City Clerk shall certify such fact to the Board of Trustees; and it shall hold a meeting and by resolution shall instruct the City Clerk to cancel the election and shall declare the candidates elected.

(b) Notice of such cancellation shall be published, if possible, in order to inform the electors of the City, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place within the City. (Prior code 2-7-12; Ord. 286 §§2, 3, 1992; Ord. 347 §1, 2008)

ARTICLE 2**Mayor and Board of Trustees****Sec. 2-2-10. Authority; terms.**

(a) Authority. The Board of Trustees shall consist of one (1) Mayor and six (6) Trustees. The Board of Trustees shall constitute the legislative body of the City; shall have the power and authority, except as otherwise provided by statute, to exercise all power conferred upon or possessed by the City; and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof. The Board of Trustees is given specific authority and power to appoint such other officers, prescribe their duties and fix their compensation, as it may deem necessary for the good government of the City.

(b) Terms of Trustees. Members of the Board of Trustees shall be elected to serve terms of four (4) years. At each regular election, three (3) Trustees shall be elected to serve four-year terms. (Prior code 2-1-1, 2-2-1; Ord. 198 §1, 1975; Ord. 347 §1, 2008)

Sec. 2-2-20. Qualifications and vacancies.

(a) Qualifications. Each Trustee shall be a resident of the City and a qualified elector therein. If any Trustee shall move from or become, during the term of his or her office, a nonresident of the City, he or she shall be deemed thereby to have vacated his or her office, upon the adoption by the Board of Trustees of a resolution declaring such vacancy to exist.

(b) Vacancies. In case of the death, resignation, vacation or removal for cause of any of the Trustees during his or her term in office, the Board of Trustees, by a majority vote of all remaining members thereof, shall have the power, by appointment, to fill all vacancies in the Board of Trustees or in any other elected office, from the duly qualified electors of the City. The person so appointed shall hold office until the next regular election and until his or her successor is elected and qualified. If the term of the person creating the vacancy was to extend beyond the next regular election, the person elected to fill the vacancy shall be elected for the unexpired term. Where vacancies exist in the offices of Trustee and successors are to be elected at the next election to fill the unexpired terms, the three (3) candidates for Trustee receiving the highest number of votes shall be elected to four-year terms, and the candidates receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired terms. (Prior code 2-2-1; Ord. 198 §3, 1975; Ord. 347 §1, 2008)

Sec. 2-2-30. Mayor.

(a) The Mayor shall be elected to serve a term of four (4) years. The Mayor shall meet the same qualifications as a Trustee and, in the event of a vacancy in the office of Mayor; such vacancy shall be filled in the same manner as a vacancy in the offices of Trustee, as set forth in Section 2-2-20 above.

(b) The Mayor shall preside over the meetings of the Board of Trustees and shall perform such duties as may be required of him or her by statute or ordinance.

(c) Insofar as is required by statute and for all ceremonial purposes, the Mayor shall be the executive head of the City. He or she shall be the presiding officer of the Board of Trustees and shall vote when there is a tie.

(d) The Mayor shall execute and authenticate by his or her signature such bonds, warrants, contracts and instruments of and concerning the business of the City as the Trustees or any statutes or ordinances may require.

(e) Except as may be required by statute, the Mayor shall exercise only such powers as the Trustees shall specifically confer upon him or her. (Prior code 2-1-2; Ord. 198 §2, 1975; Ord. 347 §1, 2008)

Sec. 2-2-40. Mayor Pro Tem.

At its first meeting following each biennial election, the Board of Trustees shall choose one (1) of the Trustees as Mayor Pro Tem. In the absence of the Mayor from any meeting of the Board of Trustees, during the absence of the Mayor from the City or during the inability of the Mayor to act, the Mayor Pro Tem shall perform the duties of the Mayor. (Prior code 2-1-3; Ord. 347 §1, 2008)

Sec. 2-2-50. Acting Mayor.

In the event of the absence or disability of both the Mayor and the Mayor Pro Tem, the Trustees may designate another of its members to serve as Acting Mayor during such absence or disability. (Prior code 2-1-4)

Sec. 2-2-60. Compensation.

(a) The Mayor of the City shall receive such monthly compensation for his or her services as set by ordinance of the Board of Trustees.

(b) Each Trustee of the City shall receive such monthly compensation for his or her services as set by ordinance of the Board of Trustees.

(c) The compensation paid to any member of the Board of Trustees, including the Mayor, shall not be increased or diminished for the term

of office for which he or she has been elected or appointed. Any Mayor or Trustee who has resigned or vacated an office prior to the end of his or her elective or appointed term shall not be eligible to election or reappointment to the same during such term if the rate of compensation has been increased. (Prior code 2-2-7; Ord. 305 §1, 1998; Ord. 311 §1, 2000; Ord. 347 §1, 2008)

Sec. 2-2-70. Regular meetings.

The Board of Trustees shall hold regular meetings on the second Tuesday of each month at the City Hall Meeting Room at a time agreed upon by the Board of Trustees provided, however, that when the day fixed for any regular meeting of the Board of Trustees falls upon a day designated by law as a legal or national holiday, such meeting shall be held on the next succeeding day not a holiday. If a second monthly meeting is needed for any reason, it will be scheduled by agreement of the Board of Trustees. (Prior code 2-2-2; Ord. 327 §1, 2002; Ord. 331 §1, 2003; Ord. 347 §1, 2008)

Sec. 2-2-80. Special meetings.

(a) The Mayor may convene a special meeting of the Board of Trustees at any time. In addition, any four (4) Trustees may call a special meeting of the Board of Trustees. Whenever a special meeting is called, a notice in writing shall be served upon each member of the Board of Trustees, either in person or by notice left at his or her usual place of residence, stating the date and hour of the meeting and the purpose for which such meeting is called. No business shall be transacted at such meeting, except as is stated in the notice. The City Clerk shall give such notice, at least forty-eight (48) hours in advance of the special meeting.

(b) The Board of Trustees, at any duly convened meeting may, by majority vote, call a special meeting for a future date. Notice of such meeting shall be given to any Trustee not in attendance.

(c) Should the Board of Trustees convene for a special meeting pursuant to a request of an interested party for the purpose of accommodating time constraints of said interested party, the Board may, in its discretion, assess fees for the special meeting against the interested party. The Board of Trustees may from time to time by resolution adopt a schedule of fees, which may be assessed for special meetings. Said fees shall reasonably compensate the staff of the City and the City Attorney for time spent in preparation for attendance at special meetings. (Prior code 2-2-2; Ord. 347 §1, 2008)

Sec. 2-2-90. Conduct of meetings.

(a) Conduct of meetings. Meetings of the Board of Trustees shall be conducted by the Mayor, according to *Robert's Rules of Order, Revised*.

(b) Quorum. No action shall be taken unless a quorum is present. A majority of the Trustees shall constitute a quorum to do business at all meetings of the Board of Trustees. A lesser number may adjourn from time to time and compel the attendance of absent members. Any Trustee, at any regular or special meeting, may, in writing, demand that attendance of the absent members, which demand shall be entered on the record by the City Clerk, who shall thereupon notify the absent members of the time and place of the meeting. Each Trustee shall vote upon every question put by the Chair unless allowed to abstain by the Board of Trustees. Upon the taking of any vote, the City Clerk shall record in the minutes the names of those voting and their votes.

(c) Agenda. All reports, communications, ordinances, resolutions, contracts, documents or other matters to be submitted to the Board of Trustees shall be delivered to the City Clerk at least forty-eight (48) business hours prior to each meeting. The City Clerk shall immediately arrange a list of such matters according to the

order of business. Each Trustee, the Mayor and the City Attorney will be furnished with copies of the order of business, together with a copy of the minutes of the last meeting, as time for preparation will permit. (Prior code 2-2-2; Ord. 347 §1, 2008)

Sec. 2-2-100. Order of business.

(a) Call to order. The Mayor shall take the chair precisely at the hour appointed for the meeting, and shall immediately call the Board of Trustees to order. The Mayor or temporary chairperson shall preserve the order and decorum, decide all questions of order and conduct the proceedings of the meeting in accordance with Subsection 2-2-90(a) above.

(b) Roll call. Before proceeding with the business of the Board of Trustees, the City Clerk shall call the roll of the members, and the names of those present shall be entered in the minutes.

(c) Reading of minutes. Unless a reading of the minutes of a Board of Trustees meeting is requested by a Trustee, the minutes of the preceding meeting, which have been furnished by the City Clerk to each Trustee, shall be considered approved if correct, and errors rectified if any exist.

(d) Reports by officers. City officials and/or committees shall present such reports as may be required by the Board of Trustees.

(e) Old business. The Board of Trustees shall consider any business that has been previously considered and is still unfinished.

(f) New business. The Board of Trustees shall consider any business not previously considered, including the introduction or reading of ordinances and resolutions.

(g) Petitions. The Board of Trustees shall hear petitions, remonstrances, communications and comments or suggestions from citizens present. All such remarks shall be addressed to the

Board of Trustees as a whole and not to any member thereof. Such remarks shall be limited to a reasonable time, and such determination will be in the discretion of the presiding officer. No person other than the individual speaking shall enter into the discussion without the permission of the presiding officer.

(h) Other business. Prior to adjournment, the Board of Trustees shall, as it deems necessary, consider such business as is not specifically provided for herein.

(i) Adjournment. The Board of Trustees may, by a majority vote of those present, adjourn from time to time to a specific date and hour. A motion to adjourn shall always be in order and decided without debate.

(j) Committees. Any question pending before the Board of Trustees may be referred to the appropriate committee or to a special committee for its consideration and report. When a question has been referred to a committee, such committee shall report thereon with its recommendation at the next meeting.

(k) Suspension of rules. Any of the provisions of this Section may be temporarily suspended in connection with any matter under consideration by a recorded vote of three-fourths (¾) of the members present, except that this shall not be construed to permit any action that is contrary to state statute. (Prior code 2-2-2; Ord. 347 §1, 2008)

Sec. 2-2-110. Resolutions or motions.

Every subject coming before the Board of Trustees for its action shall be submitted by resolution or motion, except as provided in Section 2-2-120 below. The City Clerk shall call the roll, and the vote thereon shall be taken by ayes and nays. (Prior code 2-2-2; Ord. 347 §1, 2008)

Sec. 2-2-120. Adoption of ordinances.

An ordinance shall be introduced and read in full at any regular or special meeting of the Board of Trustees and may be passed and adopted at such meeting. Such ordinance shall be duly adopted if it receives the required votes at its first reading. (Prior code 2-2-2; Ord. 221 §1, 1980; Ord. 347 §1, 2008)

Sec. 2-2-130. Voting procedures.

The Mayor shall not vote upon any question except in the case of a tie vote, when he or she shall be allowed to cast one (1) vote. All ordinances, resolutions or orders for the appropriation of money, resolutions or orders to enter into contracts, and appointments of officers shall require for passage or adoption the concurrence of a majority of all members elected to the Board of Trustees. In all other matters, a majority of the votes cast is sufficient for passage except in cases of special emergency for the preservation of the public peace, health and safety, and then only by the affirmative vote of three-fourths ($\frac{3}{4}$) of the Trustees. (Prior code 2-2-2; Ord. 221 §1, 1980; Ord. 347 §1, 2008)

Sec. 2-2-140. Intergovernmental contracts.

The Board of Trustees shall have the authority on behalf of the City to enter into contractual arrangements with one (1) or more other local governments for the performance of any governmental service, activity or undertaking which could be performed by each of the local governments. Any such contract shall set forth fully the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the contracting parties. The Board of Trustees may approve such contract by resolution or by ordinance. (Prior code 2-2-3)

Sec. 2-2-150. Oath.

All members of Board of Trustees shall take an oath to support the Constitution of the United States and the Constitution of the State. (Prior code 2-2-4; Ord. 347 §1, 2008)

Sec. 2-2-160. Boards and commissions.

The Board of Trustees shall create and appoint members to such boards and commissions as may now or hereafter exist, including but not limited to the following:

- (1) Board of Adjustments; and
- (2) Planning and Zoning Commission. (Ord. 347 §1, 2008)

ARTICLE 3**Officers and Employees****Sec. 2-3-10. Appointed officers.**

(a) The following officers of the City shall be appointed by a majority vote of all members of the Board of Trustees:

- (1) City Manager;
- (2) City Attorney;
- (3) City Clerk/Treasurer;
- (4) Municipal Judge; and
- (5) City Engineer.

(b) Said officers shall hold their respective offices until their successors are duly appointed and qualified. Vacancies shall be filled by appointment of the Board of Trustees. (Ord. 347 §1, 2008)

Sec. 2-3-20. Powers and duties of officers.

Appointed officers of the City shall have such powers and perform such duties as are now or hereafter may be prescribed by state law and the ordinances of the City, shall further perform any additional duties required by the Board of Trustees and shall be subject to the control and orders of the Board of Trustees. (Ord. 347 §1, 2008)

Sec. 2-3-30. Oath of office; bond.

(a) When required by the Board of Trustees, each officer or employee, before entering upon the duties of his or her office, shall take and subscribe to an oath to support the Constitution of the United States, the Constitution of the State and the ordinances of the City.

(b) In all cases where, by law, ordinance or resolution of the Board of Trustees, a bond is required of any such officer, he or she shall make and execute to the City a bond in such sum as is required, to be approved by the Board of Trustees, conditioned upon the faithful performance of all duties pertaining to such office, the proper care of all money or property of the City coming into his or her hands and the proper accounting for or delivery of the same. The Board of Trustees may provide that the City Treasurer shall make the payment of premiums of surety bonds of any officer of the City from funds designated by the Board. (Prior code 2-2-4; Ord. 347 §1, 2008)

Sec. 2-3-40. Salaries and compensation of officers.

The Board of Trustees shall fix the salaries and compensation of all officers of the City. (Prior code 2-7-2)

Sec. 2-3-50. Removal of City officers.

Any officer or employee appointed by the Board of Trustees may be removed from office or suspended for a specific time, with or without

pay, by a vote of three-fourths ($\frac{3}{4}$) of the majority of all Trustees whenever such officer, after a hearing before the Board, is found guilty of a dereliction or violation of his or her duty, of conduct unbecoming to an officer or of incompetence. (Prior code 2-2-7; Ord. 347 §1, 2008)

Sec. 2-3-60. City Manager.

(a) Appointment. The Board of Trustees, at its first regular meeting of each calendar year, shall appoint a City Manager. In the event a vacancy should occur in the office, the Board of Trustees shall appoint some other person to fill such unexpired term. The position of City Manager may be left vacant, at the election of the Board of Trustees, at any time. The City Manager shall serve at the pleasure of the Board of Trustees.

(b) Duties. The City Manager shall perform the following duties:

(1) Act in an advisory capacity to the Board of Trustees.

(2) Conduct assigned research.

(3) Prepare required reports and communications.

(4) Assist in the administration and enforcement of City policies and ordinances.

(5) Assist in the preparation of the City budget and in the management of City financial affairs.

(6) Have authority to sign reports, communications, applications and similar documents in dealing with other governmental entities, agencies and the like, but only to the extent that such documents, reports and communications do not contractually bind the City. Accordingly, he or she shall not have the authority to execute contracts.

(7) Perform such services as may be set forth in any annual contract for services between the State, this City and other cities employing him or her to the extent that the Board of Trustees shall request such services.

(c) Compensation. The Board of Trustees shall fix the compensation of the City Manager. Such compensation shall be in accordance with state funding. In the event that state funding of such position becomes inadequate or nonexistent, the Board may forthwith terminate the employment of any person holding the office. (Ord. 234 §2, 1983; Ord. 347 §1, 2008)

Sec. 2-3-70. City Clerk.

(a) Appointment. The Board of Trustees at its first regular meeting after each biennial election shall appoint some qualified person as City Clerk. In case a vacancy should occur in the office of City Clerk, the Board shall appoint a City Clerk for the unexpired term.

(b) Oath and bond. Before entering upon the duties of the office, the City Clerk shall take an oath of office and furnish a surety bond as set forth in Section 2-3-30 above, conditioned upon the faithful performance of all duties pertaining to the faithful discharge of his/her duties as City Clerk.

(c) Duties. The City Clerk shall perform the following duties:

(1) Be the Clerk of the Board of Trustees, attend all meetings of the Board of Trustees and keep a permanent journal of its proceedings.

(2) Be the custodian of all the City's records, and keep such records open at all reasonable times for inspection by electors of the City.

(3) Certify by signature all ordinances and resolutions enacted or passed by the Board of Trustees.

(4) Provide and maintain in the office a supply of forms for all petitions required to be filed for any purpose provided by the Board of Trustees.

(5) Countersign all warrants drawn on the City Treasury.

(6) Be custodian of all bonds of all officers or employees of the City.

(7) Perform such other duties as may be prescribed for him or her by law or by the Board of Trustees. (Prior code 2-4-1, 2-4-2, 2-4-3, 2-5-2; Ord. 347 §1, 2008)

Sec. 2-3-80. City Treasurer.

(a) Appointment. The Board of Trustees at its first regular meeting after each biennial election shall appoint some qualified person as City Treasurer. In case a vacancy should occur in the office of City Treasurer, the Board of Trustees shall appoint a City Treasurer for the unexpired term. The Board of Trustees may in its discretion appoint the City Clerk as City Treasurer.

(b) Oath and bond. Before entering upon the duties of the office, the City Treasurer shall take an oath of office and furnish a surety bond as set forth in Section 2-3-30 above, together with an oath that, when he or she vacates the office, he or she will turn over and deliver to his or her successor all monies, books, papers, property or things belonging to the City and remaining in his or her charge as City Treasurer.

(c) Duties. The City Treasurer shall perform the following duties:

(1) Receive all monies belonging to the City and give receipts therefor; keep the

books and accounts in such manner as may be prescribed by the Board of Trustees; keep a separate account of each fund or appropriation and the debts and credits belonging thereto; and report to the Board of Trustees at each regular monthly meeting the state of the treasury at the date of such account, and the balance of money in the treasury.

(2) Accompany such statement of accounts with a statement of all monies received in the treasury and on what account during the preceding month, together with all warrants redeemed and paid by him or her. Such warrants and their supporting vouchers shall be delivered and filed in the City Clerk's office upon every day of such statement. All books and accounts of the City Treasurer shall always be subject to inspection of any member of the Board of Trustees.

(3) Annually within ten (10) days after the close of the fiscal year, complete and file with the City Clerk a full and detailed account of all receipts and expenditures of the City, and all of his or her transactions as City Treasurer during the preceding fiscal year, and show in such account the state of the treasury at the close of the fiscal year. The City Clerk shall immediately cause such account to be published in a newspaper published in the City.

(4) If there are no funds available for the payment of any City warrant presented to him or her for such payment, such warrants are to be kept in a book by him or her for that purpose; endorse upon all such warrants the time and date of such registry; and whenever he or she pays such warrant, enter the payment and the amount of interest allowed or paid on such warrant in the registry.

(5) Perform all other duties, keep all records and make all reports that are required

by other provisions of this Code or by state law. (Prior code 2-5-1, 2-5-2, 2-5-3; Ord. 347 §1, 2008)

Sec. 2-3-90. City Attorney.

(a) Appointment. The Board of Trustees at its first regular meeting after each biennial election shall appoint some qualified attorney at law as the City Attorney and shall fix his or her compensation. In case a vacancy should occur in the office of City Attorney, the Board shall appoint a City Attorney for the unexpired term.

(b) Duties. The City Attorney shall perform the following duties:

(1) Act as legal advisor to, and be attorney and counsel for, the Board of Trustees; be responsible solely to the Board of Trustees, advise any officer or department head of the City in matters related to his or her official duties when so requested by the Board of Trustees; file with the City Clerk a copy of all written opinions given by him or her.

(2) Prosecute ordinance violations; conduct cases in Municipal Court for the City, and file with the City Clerk copies of such records and files relating thereto.

(3) Prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him or her by the Board of Trustees; and promptly give his or her opinion as to the legal consequences thereof.

(4) Call to the attention of the Board of Trustees all matters of law, and changes or developments therein affecting the City.

(5) Perform such other duties as may be prescribed for him or her by the Board of Trustees. (Prior code 2-6-1, 2-6-2; Ord. 347 §1, 2008)

Sec. 2-3-100. Social Security.

In the opinion of the Board of Trustees, the extension of the social security system to employees and officers of the City will be of great benefit not only to the employees and officers by providing that said employees and officers may participate in the provision of the old-age and survivors insurance system, but also to the City by the efficiency of its government. (Ord. 347 §1, 2008)

ARTICLE 4**Municipal Court****Sec. 2-4-10. Definitions.**

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

Municipal Court means the Police Magistrate's Court or Police Court.

Municipal Judge means the Police Magistrate or Police Judge. (Prior code 5-1-1; Ord. 347 §1, 2008)

Sec. 2-4-20. Creation of Municipal Court.

(a) A qualified Municipal Court of record in and for the City is hereby created and established pursuant to and governed by the provisions of state law.

(b) A verbatim record of the proceedings and evidence at trial shall be kept by electronic device. In addition, the clerk shall keep a record of all cases tried or determined by the Court. (Prior code 5-1-2; Ord. 343 §§1, 6, 2007; Ord. 347 §1, 2008)

Sec. 2-4-30. Original jurisdiction.

The Municipal Court shall have original jurisdiction of all cases arising under the provisions of this Code and other ordinances of the City, with full power to carry the same into effect and punish violators thereof by the imposition of such fines and penalties as are prescribed in this Code or by ordinance. (Prior code 5-1-11; Ord. 347 §1, 2008)

Sec. 2-4-40. Appropriations.

The Board of Trustees shall annually appropriate an amount sufficient to pay the salary of the City Attorney's office, the clerical help, office help, office expense and expense of supplies necessary to carry out the provisions of this Article. (Prior code 5-1-3; Ord. 347 §1, 2008)

Sec. 2-4-50. Appointment of Municipal Judge.

The Municipal Court shall be presided over by a presiding Municipal Judge, appointed by the Board of Trustees for an indefinite term, or until a successor is appointed and duly qualified. The Municipal Judge shall perform no other duties during the hours that Municipal Court is in session except such as may be approved by the Board of Trustees on motion or resolution. The Board of Trustees may appoint additional judges from time to time as may be needed to transact the business of the Court or to preside in the absence of the presiding Municipal Judge. The presiding Municipal Judge shall supervise and direct the Court's operations. The Board of Trustees for cause may remove any Municipal Judge. (Prior code 5-1-4)

Sec. 2-4-60. Qualifications of Municipal Judge.

The Board of Trustees may, by ordinance or resolution, establish from time to time such qualifications for the office of Municipal Judge

as it may deem fit, proper and consistent with the procurement of persons of judicial temperament and ability. (Prior code 5-1-5; Ord. 347 §1, 2008)

Sec. 2-4-70. Oath of office.

Before entering upon the duties of his or her office, the Municipal Judge shall take and subscribe, before a judge of a court of record, and file with the Board of Trustees, an oath or affirmation that he or she will support the Constitution of the United States, the Constitution and laws of the State and the laws of the City, and will faithfully perform the duties of his or her office. The Municipal Judge shall give bond to the City in an amount which shall be approved by the Board of Trustees and be conditioned on the faithful performance of the duties of the office of the Municipal Judge and for the faithful accounting for the payment of all monies coming into his or her hands by virtue of said office. (Prior code 5-1-6; Ord. 347 §1, 2008)

Sec. 2-4-80. Compensation of Municipal Judge.

The Board of Trustees shall set the compensation for the Municipal Judge for the City as other salaries to municipal employees. (Ord. 187, 1972; Ord. 347 §1, 2008)

Sec. 2-4-90. Acting Municipal Judge.

In the case of temporary absence, sickness or other inability of the Municipal Judge to act, the Mayor may appoint a competent person to act as such Municipal Judge until the disability of the Municipal Judge is removed. Such appointment must be in writing and cannot be a member of any City board or staff. (Prior code 5-1-10; Ord. 347 §1, 2008)

Sec. 2-4-100. Court Clerk.

The Municipal Judge shall serve as ex officio Court Clerk in accordance with state statutes, unless a separate Court Clerk has been appointed by the Municipal Judge by and with the consent of the Board of Trustees. (Prior code 5-1-9; Ord. 347 §1, 2008)

Sec. 2-4-110. Sessions generally.

(a) There shall be regular sessions of the Municipal Court for the trial of cases as may be scheduled by the Municipal Judge, with the consent and approval of the Board of Trustees. The Municipal Judge may, in his or her discretion, hold special sessions of Court at any time, including Sundays, holidays and evenings. In case of any conflict between the Municipal Judge and the Board of Trustees as to said hours, the decision of the Board of Trustees shall govern. All sessions shall be open to the public.

(b) Where the nature of the case is such that it would be in the best interest of justice to exclude persons not directly connected with the proceedings, the Municipal Judge may order that the courtroom be cleared. (Prior code 5-1-13, 5-1-14; Ord. 347 §1, 2008)

Sec. 2-4-120. Traffic cases.

Insofar as it is practical, traffic cases shall be heard separately from other cases. Where traffic cases and other cases are set for the same court sessions, traffic cases shall be heard first. (Prior code 5-1-15)

Sec. 2-4-130. Complaints; reports.

The Municipal Judge shall receive and examine affidavits and complaints at all times for the violation of any City ordinance, and shall issue a summons or warrant in every case where

there is probable cause to believe that an offense has been committed. The Municipal Judge shall file monthly reports with the City Clerk of all monies collected, either in the way of fines or otherwise, and shall on the last day of each month pay the City Treasurer all monies in his or her hands. The reports shall state the number of cases filed in Municipal Court, how the same were disposed of and other matters of information concerning his or her office. (Prior code 5-1-12)

Sec. 2-4-140. Powers.

(a) The Municipal Court of the City shall hear and try all alleged violations of ordinance provisions of the City.

(b) In addition to other powers, the Municipal Judge shall have all judicial powers relating to the operation of the court, subject to any rules of procedure governing the operation and conduct of Municipal courts promulgated by the Colorado Supreme Court. The presiding Municipal Judge shall have authority to issue local rules of procedure consistent with any rules of procedure adopted by the Colorado Supreme Court. (Prior code 5-1-8; Ord. 343 §§2, 3, 2007; Ord. 347 §1, 2008)

Sec. 2-4-150. Collection of fines.

All fines and costs collected or received by the Municipal Court shall be reported and paid monthly to the City Treasurer and deposited in the General Fund. (Ord. 343 §5, 2007)

Sec. 2-4-160. Suspension.

The Municipal Judge may suspend a sentence or fine and place the violator on probation for a period not exceeding one (1) year. Costs may be assessed against a defendant found guilty as provided by law. (Ord. 343 §4, 2007)

Sec. 2-4-170. Contempt power.

(a) The Municipal Court shall have power to compel attendance of witnesses and to punish for contempt of court. When the Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a fine not to exceed one hundred dollars (\$100.00), or a jail sentence not to exceed five (5) days, and shall have all powers incident to a court of record in relation to the same.

(b) In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant in a petty offense case, including but not limited to a formal written complaint, arraignment and trial by jury. (Prior code 5-1-11; Ord. 347 §1, 2008)

ARTICLE 5

Police Department

Sec. 2-5-10. Creation; composition.

There is hereby created a Police Department for the City, which shall consist of one (1) Chief of Police (Town Marshal) and as many police officers as may from time to time be deemed necessary for the safety and good order of the City. The Board of Trustees, by intergovernmental contract as contemplated by Section 2-2-140 of this Chapter may enter into a contract with Mineral County, to provide police services and protection through the office of the County Sheriff. In such event, the following shall apply:

(1) There shall be no Police Department for the City, nor shall there be a Chief of Police (Town Marshal) or police officers.

(2) Any contract with the County shall place the Sheriff in the position of an independent contractor.

(3) The office of the County Sheriff shall perform all of the duties required and have all of the responsibility of and have the authority of the Police Department under every provision of this Article and any other provisions of this Code.

(4) Whenever in this Code reference is made to the *Police Department*, the same shall be read as the *office of the County Sheriff*. Whenever reference is made to the *Chief of Police* or *Town Marshal*, the same shall be read as the *County Sheriff*. Whenever reference is made to *police officers* or *deputies*, the same shall be read as the *Sheriff's deputies*.

(5) Section 2-5-60 of this Code shall not apply since the Sheriff, as an independent contractor, will be paid pursuant to such contract; and Section 2-5-80 shall not be applicable. (Ord. 251 §1, 1985; Ord. 347 §1, 2008)

Sec. 2-5-20. Departmental regulations.

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Board of Trustees. (Prior code 2-10-2)

Sec. 2-5-30. Chief of Police; appointment and duties.

(a) At its first regular meeting following each biennial election, the Board of Trustees shall appoint a Chief of Police who shall be the head of the Police Department. It shall be the duty of the Chief of Police to:

(1) See that the ordinances of the City and the laws of the State are duly enforced, the rules and regulations of the Police Department obeyed, and perform such duties as may be required by the Board of Trustees.

(2) Direct the operations of the Police Department, subject to the rules and regulations thereof.

(3) Arrest any person violating any of the City ordinances and take such violator before the Municipal Court for trial.

(4) Take charge of the City jail, all prisoners confined therein and all those who are sentenced to labor on the streets or public works of the City, and see that orders and sentences with reference to such are fully executed and complied with.

(5) Render such accounts of the Police Department, his or her duties and receipts as may be required by the Board of Trustees, and keep the records of his or her office open to inspection by the Board of Trustees at any time.

(b) Before entering upon the duties of such office, the Chief of Police shall take and subscribe to an oath that he or she will support the Constitution of the United States, the Constitution and laws of the State and ordinances of the City, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter.

(c) The Chief of Police shall furnish a surety bond in an amount to be approved by the Board of Trustees. (Prior code 2-10-3; Ord. 347 §1, 2008)

Sec. 2-5-40. Duties of police officers.

All members of the Police Department shall have power and duties as follows:

(1) They shall perform all duties required by the Chief of Police.

(2) They shall suppress all riots, disturbances and breaches of the peace, apprehend

all disorderly persons in the City, and pursue and arrest any persons fleeing from justice in any part of the State.

(3) They shall be the enforcement officers of the City and shall see that the provisions of this Code and the laws of the State are complied with. They shall arrest without process all persons engaged in the violation in their presence of any provision of this Code or the laws of the State. Upon such arrest, they shall forthwith convey such offenders before the proper officer to be dealt with according to law; provided, however, that they may incarcerate any person they arrest at a late and unusual hour of the night until the following morning; and provided further that, in the special cases relating to traffic offenses, they may release an arrested person upon his or her written promise to appear in court.

(4) They shall report such offenses as may come to their knowledge to the proper City officials or they shall report the same to the Municipal Judge, securing a warrant for the arrest of offenders when desirable.

(5) They shall execute and return all writs and processes directed to them by the Municipal Judge in any case arising under a City ordinance, and they may serve the same in any part of the County.

(6) They shall observe the condition of the streets, sidewalks and alleys of the City and of any obstruction, nuisance or impediments therein, and shall take necessary measures to remove or abate the same (Prior code 2-10-4; Ord. 347 §1, 2008)

Sec. 2-5-50. Oath and bond of officers.

Before entering upon the duties of his or her office, each police officer shall take and subscribe an oath that he or she will support the

Constitution of the United States, the Constitution and laws of the State and the ordinances of the City, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. He or she shall also furnish to the City a surety bond in an amount to be approved by the Board of Trustees, conditioned upon the faithful performance of the duties of his or her office. (Prior code 2-10-5; Ord. 347 §1, 2008)

Sec. 2-5-60. Uniforms.

Every police officer shall wear at all times while on duty a uniform of the type and quality prescribed by the Board of Trustees. (Prior code 2-10-7)

Sec. 2-5-70. Extraterritorial duties.

The Chief of Police may in his or her discretion, upon the request of a Chief of Police or person exercising the functions thereof in any other jurisdiction, assign police officers under his or her control, together with such equipment as he or she deems to be proper, to perform temporary duty in the requesting jurisdiction. (Prior code 2-10-9)

Sec. 2-5-80. Reserve police; appointment, powers.

The Mayor may, upon any emergency, riot, pestilence, invasion or at any time he or she deems it necessary for the peace, good order or health of the City, order the Chief of Police to appoint reserve police officers for a specified time, not exceeding two (2) days, without the approval of the Board of Trustees. He or she may also, with the approval of a majority of the Board of Trustees, order the Chief of Police to appoint such number of reserve police officers as may be agreed upon, to serve upon days of election, public celebration and holidays, and

said reserve police officers shall have and possess all the powers and privileges of regular police officers during the time for which they may be appointed. (Prior code 2-10-10; Ord. 347 §1, 2008)

Sec. 2-5-90. Private police.

Any person desiring the services of a special police officer in or about his or her property or place of business, upon agreeing to defray all expenses of maintenance of such special police officers, upon application to the Board of Trustees, may have any suitable person named for special police officers duly appointed as such. Such special police officers shall take the usual oath of office and shall have the powers of a regular police officer in and upon the premises for which he or she may have been appointed, but not elsewhere. However, special police officers so appointed shall be under the control of the Chief of Police. The person at whose instance such officer was appointed shall be responsible for the expense of such officer, and the City shall in no case incur any liability whatsoever by reason of the appointment of such special police officers. No person appointed as a special police officer under the terms of this Section shall be considered a member of the Police Department. (Prior code 2-10-11; Ord. 347 §1, 2008)

Sec. 2-5-100. Private police; shield.

All special or reserve police officers shall wear a shield having inscribed thereon "Special police officer" while on duty. It shall be unlawful for any special police officer to wear his or her badge or shield when he or she is not performing the duties for which he or she was employed. (Prior code 2-10-12; Ord. 347 §1, 2008)

ARTICLE 6

Fire Protection

Sec. 2-6-10. Agreements with organized fire districts.

The Board of Trustees may from time to time enter into agreements for the joint use of facilities, buildings and equipment with fire districts organized under the laws of the State. (Prior code 2-12-7)

Sec. 2-6-20. Providing fire protection outside City limits.

The City is hereby authorized to enter into agreements or contracts to furnish fire protection within the City or to enter into mutual aid agreements. The members of the Fire Department are authorized and directed to render fire-fighting service to communities, organizations, owners or occupants of premises outside the corporate limits of the City. Such service shall only be rendered subject to the terms of the agreement or contract entered into by the City. (Prior code 2-12-8)

ARTICLE 7

Rules of Procedure

Sec. 2-7-10. Purpose and applicability.

The purpose of this Article is to provide a uniform, consistent and expeditious method of procedure for the conduct of all hearings held before the Board of Trustees, or commission of the City. The provisions of this Article shall be applied uniformly in all such hearings; provided, however that any Board of Trustees, commission or official may supplement the provisions of this

Article by the adoption of further rules or procedure not inconsistent herewith. All rules adopted to supplement the provisions of this Article by any Trustee, commission or official shall be reduced to writing and copies thereof shall be made available to the public. (Prior code 2-9-1; Ord. 347 §1, 2008)

Sec. 2-7-20. Quasi-judicial hearings.

The provisions of this Section and Sections 2-7-30 through 2-7-70 shall be applicable only to those hearings where the Board of Trustees, commission or official is called upon to exercise a power of a judicial or quasi-judicial nature, which, for purposes of this Article, shall be deemed to consist of the following:

(1) Hearings before the Board of Trustees, upon application for the issuance or hearings for the suspension or revocation of a liquor or fermented malt beverage license; upon ordinances which zone or rezone realty; and upon all appeals from the decisions of any City official, Trustee or commission, where such an appeal is otherwise authorized, and which requires an evidentiary hearing to determine such appeal.

(2) Hearings before the Board of Adjustment upon appeals from any decision of the Building Inspector or upon request for a variance or exception from the terms of any ordinance or any provision of this Code.

(3) Hearings before the Board of Trustees or any City commission respecting the issuance, suspension or revocation of any license issued by the City. (Prior code 2-9-2; Ord. 347 §1, 2008)

Sec. 2-7-30. Rights of participants.

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

(1) The administration of oaths to all parties or witnesses who appear for the purpose of testifying upon factual matters.

(2) The cross-examination, upon request, of all witnesses by the interested parties.

(3) The stenographic or verbatim reproduction of all testimony presented in the hearing, or an adequate summary of such testimony.

(4) A clear decision by the hearing body, which shall set forth the factual bases and reasons for the decision rendered. (Prior code 2-9-3; Ord. 347 §1, 2008)

Sec. 2-7-40. Order of procedure.

(a) In all quasi-judicial hearings, the following order of procedure shall be followed:

(1) Presentation of those documents showing the regularity of the commencement of the proceedings and the form of the public notice given.

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

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

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

(5) Presentation of evidence in opposition or rebuttal to the matters presented by the opposition.

(b) All documents or other items of physical evidence shall be marked as exhibits with such identifying symbols as may be necessary to determine the exhibit referred to by any witness or other person. (Prior code 2-9-4)

Sec. 2-7-50. Rules of evidence.

The hearing body shall not be required to observe any formal rules of evidence, but may consider any matter which a majority thereof concludes is reasonably reliable and calculated to aid the hearing body in reaching an accurate determination of the issues involved. (Prior code 2-9-5)

Sec. 2-7-60. Deliberation and notice of decision.

Each hearing body is hereby authorized to deliberate upon issues presented at the hearing in private, nonpublic sessions; provided that no decision shall be effective, except upon a vote of the members of the hearing body, conducted in an open session thereof, which shall be duly recorded in the minutes of the public body. Written copies of all decisions shall be delivered to the applicant, petitioner, appellant, complainant and other interested party requesting the same. (Prior code 2-9-6)

Sec. 2-7-70. Judicial enforcement and review.

Any party aggrieved by any decision rendered by the hearing body in any quasi-judicial hearing, as well as department heads or authorized officials of the City, or the City itself, may apply to have said decision reviewed by a court of competent jurisdiction, in accordance with the provisions of the Colorado Rules of Civil Procedure. (Prior code 2-9-7)

Sec. 2-7-80. Administrative hearings.

All other hearings before the Board of Trustees or any City commission or official shall be deemed to be administrative hearings, the purpose of which is to obtain information to enable the Board of Trustees to determine legislative

policy, or to enable the Board of Trustees or City commission or official to make recommendations to the Board of Trustees on pending legislation. Such hearings shall be conducted in compliance with the provisions of Sections 2-7-90 through 2-7-130 below and in such a manner so as to enable any person desiring to be heard a reasonable opportunity for the presentation of his or her views. (Prior code 2-9-8; Ord. 347 §1, 2008)

Sec. 2-7-90. Commencement of proceedings.

All proceedings conducted pursuant to the provisions of this Article shall be commenced in the manner provided by the ordinance or statute governing the matter. (Prior code 2-9-9)

Sec. 2-7-100. Referral to hearing body.

Upon receipt by the City Clerk or the secretary of any Board, commission or other appropriate officer of the City of any application, petition, notice of appeal, complaint or other instrument initiating a hearing, the same shall be referred to the Board of Trustees, City commission or official having jurisdiction over the matter, and a date, time and place for hearing thereon shall be set by said Board, commission or official, who shall direct that public notice thereof be given; provided, however, that the Board of Trustees, City commission or official may authorize its clerk or secretary to set a date, time and place for hearing upon receipt of such instrument without the necessity for action by the Board of Trustees, City commission or official. (Prior code 2-9-10)

Sec. 2-7-110. Public notice.

Public notice of the date, time and place of the public hearing shall be given in the manner provided by ordinance or statute. In the absence of provisions specifically delineating the manner

in which public notice is to be given, notice of the date, time, place and purpose of the hearing to be held shall be published once in that newspaper designated by the Board of Trustees, not less than fifteen (15) days prior to the date of said hearing. (Prior code 2-9-11)

Sec. 2-7-120. Preserving order.

Each hearing body shall have the right to preserve order during the hearing and to take such steps, including the ejection of any disorderly or obstreperous persons interfering with the proceedings as may be necessary. The hearing body may, prior to any presentations and as a condition to the taking of testimony or information from any person, require the registration of all persons desiring to be heard during the hearings. It may restrict the testimony of any person to the material uses pending before it and, to prevent duplicate or cumulative presentations, it may impose reasonable time restrictions on any person. (Prior code 2-9-12)

Sec. 2-7-130. Adjournments.

After commencement of any hearing, the hearing body may, if it is deemed necessary to obtain a full presentation, adjourn the hearing from time to time by publicly announcing the fact of such adjournment and the date, time and place when and where the adjourned hearing shall recommence, without the necessity of any further published notice thereof. (Prior code 2-9-13)

ARTICLE 8

Emergency Protection

Sec. 2-8-10. Purpose.

The City will from time to time in the future in all probabilities have within its corporate limits fire, flood, civil disturbances and riots; and

therefore, it is deemed in the best interest of the City to exercise certain emergency police powers necessary to and incidental to the maintenance of the safety, health and welfare of the citizens of the City. (Prior code 2-11-1)

Sec. 2-8-20. Mayor's authority.

Emergency police powers shall be placed in the hands of the Mayor. These powers should be exercised only in the event of an emergency as herein contemplated and shall only be exercised for such a period of time, as the actual emergency exists. Said powers shall only be invoked after a declaration and proclamation of an emergency. (Prior code 2-11-2)

Sec. 2-8-30. Powers of Mayor.

In addition to any and all powers enumerated in this Code, the Mayor shall have further emergency powers as necessary to preserve the peace and order of the City, as follows:

(1) The Mayor shall have the power to declare an emergency to exist when, in his or her opinion, one (1) or more of the following conditions exist:

a. There is extreme likelihood of danger of destruction of life or property due to unusual conditions.

b. Unusual or extreme weather conditions make the use of City streets or areas difficult or impossible.

c. Civil unrest, commotion or uprising is imminent or exists.

d. There is a stoppage or loss of electrical power affecting a major portion of the City.

(2) The emergency shall be declared in a proclamation of the Mayor, which proclamation shall be delivered to the designated law

enforcement official. The designated law enforcement official shall then see that said proclamation is delivered to all news media within the City and shall also use public address systems throughout the City to immediately notify the public of said proclamation and that violators will be arrested and subject to penalty.

(3) After declaration of such emergency, the Mayor shall have the authority to exercise any or all of the following powers:

a. To call upon regular and auxiliary enforcement agencies and organizations within or without the City to assist in preserving and keeping the peace and the preservation of life and property of the citizenry of the City.

b. To close streets and sidewalks and to delineate areas within the City wherein an emergency exists.

c. To impose a curfew upon all or any portion of the City, thereby requiring all persons in such designated curfew areas to forthwith remove themselves from public streets, alleys, parks or other public places; provided, however, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firefighters and City-authorized or City-requested enforcement officers and personnel may be exempted from such curfew.

d. To order the closing of any business establishments anywhere within the City for the period of the emergency, such businesses to include, but not be limited to, those selling intoxicating liquors, malt beverages, gasoline or firearms.

e. To do any and all acts necessary and incidental to the preservation of life, limb and property within the City.

(4) The proclamation specifying with exactness the area in which the emergency is declared to exist shall become effective upon its issuance and dissemination to the public by the appropriate news media.

(5) Duration of emergency.

a. Any emergency proclaimed in accordance with the provisions of this Article shall terminate after forty-eight (48) hours from the issuance thereof, or upon the issuance of a proclamation determining that an emergency no longer exists, whichever occurs first; provided, however, that upon declaration of a second or further emergencies, the emergency powers set forth herein may be exercised during such further emergency period or periods, but never for more than forty-eight (48) hours in one (1) declared emergency period.

b. No emergency period shall extend beyond the next regular, special or called meeting of the Board of Trustees unless at such a meeting the declaration of emergency is specifically approved by resolution of the Board of Trustees. (Prior code 2-11-3; Ord. 347 §1, 2008)

Sec. 2-8-40. Penalties.

Any person who shall willfully fail or refuse to comply with the order of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the proclamation of emergency authorized herein shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code 2-11-4; Ord. 347 §1, 2008)

ARTICLE 9

Planning and Zoning Commission

Sec. 2-9-10. Creation.

Pursuant to state law, there is hereby created a Planning and Zoning Commission as an advisory board for the City as set forth in Sections 31-23-202 and 31-23-306, C.R.S. (Ord. 342 §1, 2006)

Sec. 2-9-20. Members.

The policies and procedures of the Planning and Zoning Commission shall be developed by the Planning Commission and approved by the Board of Trustees. The Planning and Zoning Commission shall consist of not less than five (5) or more than seven (7) members. When the Commission is limited to five (5) members, the membership shall consist of the Mayor and a member of the governing body as ex officio members and three (3) persons appointed by the Board of Trustees. When the Commission has five (5) or fewer members all members shall be entitled to vote and act with the full authority and powers set forth in this Article 9. When the Commission consists of seven (7) members, the Mayor and Trustee will act as ex-officio members. All members of such Commission shall be bona fide residents of the Municipality. The term of each appointed member shall be four (4) years, and the term of the members of the governing body will end with their respective term expiration. (Ord. 342 §§2-5, 7, 2006; Ord. 377, §2, 2013)

Sec. 2-9-30. Compensation.

All members of the Commission shall serve without compensation, and the appointed members shall hold no other Municipal office. (Ord. 342 §6, 2006)

Sec. 2-9-40. Purpose.

The Planning and Zoning Commission is created for the following purposes:

(1) To prepare and maintain, subject to periodic revision as necessary, a Master Plan as described by state statutes.

(2) To implement the provisions of Chapter 16 of this Code, and to perform all functions and powers referred to in said Chapters where reference is made.

(3) To study and recommend to the Board of Trustees amendments to the Zoning Map of the City.

(4) To study and recommend appropriate zoning classifications for all annexations to the City.

(5) To exchange information with the various governmental agencies charged with planning and zoning responsibilities and with the Board of Adjustment.

(6) To have all other duties and powers incidental to the above and any and all powers and duties set out by state statute, except that nothing herein shall permit the Planning Commission to make amendments or changes in the zoning of the City, such powers expressly being reserved by the Board of Trustees. (Ord. 347 §1, 2008)

ARTICLE 10

Board of Adjustment

Sec. 2-10-10. Establishment.

A Board of Adjustment is hereby established in accordance with C.R.S. § 31-23-207, C.R.S. The membership of the Board of Adjustment shall be composed of the membership of the Planning and Zoning Commission, as established by Article 9 of this Chapter. The qualifications for membership, terms of membership, filling of vacancies and removal of members shall be according to the same laws and rules as are applicable for the Planning and Zoning Commission members. (Ord. 369 §2, 2011)

Sec. 2-10-20. Meetings.

The meetings of the Board of Adjustment shall be scheduled as necessary when variance applications or appeals are submitted to the City. Generally, meetings of the Board of Adjustment shall be scheduled to coincide with meetings of the Planning and Zoning Commission, as is convenient. (Ord. 369 §2, 2011)

Sec. 2-10-30. Compensation.

Each member of the Board of Adjustment shall be paid per meeting for each meeting as determined by ordinance by the Board of Trustees. (Ord. 369 §2, 2011)

Sec. 2-10-40. General rules.

The Board of Adjustment shall follow the general rules and procedures of the Planning and Zoning Commission. The Board of Adjustment may adopt specific rules which are consistent with the provisions of this Article. The Chairperson and Acting Chairperson of the Board of Adjustment shall be the same as the respective position with the Planning and Zoning Commission. The Chairpersons and/or Acting Chairperson may schedule meetings of the Board of Adjustment. The Chairperson and/or Acting Chairperson may administer oaths and compel the attendance of witnesses by application to the district court. The court, upon proper showing, may issue subpoenas and enforce obedience by contempt proceedings. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be a public record and immediately filed in the Town Hall. (Ord. 369 §2, 2011)

Sec. 2-10-50. Voting.

The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance. (Ord. 369 §2, 2011)

CHAPTER 4

Revenue and Finance

Article 1 Fiscal Year

Sec. 4-1-10 Fiscal year established

Article 2 General and Special Funds

Sec. 4-2-10 Custody and management of funds
Sec. 4-2-20 General Fund created
Sec. 4-2-30 Capital Improvements Fund created
Sec. 4-2-40 Conservation Trust Fund created
Sec. 4-2-50 Trash Fund created
Sec. 4-2-60 Virginia Christensen Fund created
Sec. 4-2-70 Water and Sewer Fund created

Article 3 Sales Tax

Sec. 4-3-10 Purpose
Sec. 4-3-20 Definitions
Sec. 4-3-30 Schedule of tax
Sec. 4-3-40 Sales tax regulations
Sec. 4-3-50 Exemptions from sales tax
Sec. 4-3-60 Location of business
Sec. 4-3-70 Collection, administration and enforcement
Sec. 4-3-80 Penalties

ARTICLE 1

Fiscal Year

Sec. 4-1-10. Fiscal year established.

The fiscal year of the City shall commence on January 1 of each year and shall extend through December 31 of the same year. (Ord. 347 §1, 2008)

ARTICLE 2

General and Special Funds

Sec. 4-2-10. Custody and management of funds.

Monies in the funds created in this Chapter shall be in the custody of and managed by the City Treasurer. The City Treasurer shall maintain accounting records and account for all of said monies as provided by law. Monies in the funds of the City shall be invested or deposited by the City Treasurer in accordance with the provisions of law. All income from the assets of any fund shall become a part of the fund from which derived and shall be used for the purpose for which such fund was created; provided that, except as otherwise provided in this Code or by other ordinances or laws, the Board of Trustees may transfer out of any fund any amount at any time to be used for such purpose as the Board of Trustees may direct. (Ord. 347 §1, 2008)

Sec. 4-2-20. General Fund created.

There is hereby created a fund, to be known as the General Fund, which shall consist of the following:

- (1) All cash balances of the City not specifically belonging to any existing special fund of the City.

- (2) All fixed assets of the City (to be separately designated in an account known as the General Fund Fixed Assets) not specifically belonging to any existing special fund of the City. (Ord. 347 §1, 2008)

Sec. 4-2-30. Capital Improvements Fund created.

There is hereby created a special fund, to be known as the Capital Improvements Fund. All revenue received by the City as a result of the one-percent increase in local sales tax implemented by Ordinance 236, 1983, shall be deposited in this Fund, and the resulting revenue shall be appropriated solely for capital improvements, as allowed by law. (Ord. 236 §2, 1983; Ord. 347 §1, 2008)

Sec. 4-2-40. Conservation Trust Fund created.

There is hereby created a special fund, to be known, as the Conservation Trust Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 347 §1, 2008)

Sec. 4-2-50. Trash Fund created.

There is hereby created a special fund, to be known as the Trash Fund, and the funds therein shall be used only for the purposes of defraying expenses in the collection of garbage and rubbish, and as allowed by law. (Ord. 347 §1, 2008)

Sec. 4-2-60. Virginia Christensen Fund created.

There is hereby created a special fund to be known as the Virginia Christensen Fund, and the funds therein shall be used only for the purposes allowed by the Virginia G. Christensen Trust Agreement dated June 16, 1989. (Ord. 347 §1, 2008)

Sec. 4-2-70. Water and Sewer Fund created.

There is hereby created a special fund to be known as the Water and Sewer Fund. All revenue received from users of the City's water and wastewater plants and distribution infrastructure shall be deposited in this fund. The funds therein shall be used only for the purposes of defraying expenses associated with the production, treatment and distribution of water as well as the distribution and treatment of wastewater. (Ord. 347 §1, 2008)

ARTICLE 3

Sales Tax

Sec. 4-3-10. Purpose.

The purpose of this Article is to impose a sales tax on the sale of tangible personal property or the furnishing of certain taxable services as provided in Section 39-26-104, C.R.S., upon every retailer in the City. (Ord. 201 §2, 1976)

Sec. 4-3-20. Definitions.

(a) For the purposes of this Article, the following words and phrases shall have the meanings indicated unless the context clearly indicates otherwise:

Clerk means the City Clerk and any deputy clerk duly appointed by the Board of Trustees.

Director of Revenue means the Director of the Colorado Department of Revenue.

(b) The definitions of all other words, terms and phrases used herein shall be as defined in Section 39-26-102, C.R.S., and said definitions are incorporated herein by this reference. (Ord. 201 §3, 1976; Ord. 347 §1, 2008)

Sec. 4-3-30. Schedule of tax.

There is hereby imposed on all sales of tangible personal property at retail and the furnishing of certain taxable services, as defined herein, a tax equal to two percent (2%) of the gross receipts of said sales. (Ord. 201 §6, 1976; Ord. 202 §4, 1976; Ord. 236 §§3, 5, 1983; Ord. 347 §1, 2008)

Sec. 4-3-40. Sales tax regulations.

(a) The gross receipts from sales shall include delivery charges, when such charges are subject to the state sales and use tax imposed by Article 26 of Title 39, C.R.S., regardless of the place to which delivery is made.

(b) The imposition of the tax on individual sales shall be in accordance with the schedule set forth in the rules and regulations promulgated by the Colorado Department of Revenue. Any rebate hereunder shall be by separate ordinance of the Board of Trustees.

(c) The amount subject to tax under this Article shall not include the state sales and use tax imposed by Article 26 of Title 39, C.R.S.

(d) The tangible personal property and services taxable pursuant to this Article shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., and subject to the same exemptions as those specified in Section 39-26-114, C.R.S. (Ord. 201 §5, 1976; Ord. 347 §1, 2008)

Sec. 4-3-50. Exemptions from sales tax.

All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from this sales tax, when such sales meet both of the following conditions:

- (1) The purchaser is a nonresident of or has his or her principal place of business outside of the City limits; and

(2) Such personal property is registered or required to be registered outside the City limits under state law. (Ord. 201 §5, 1976; Ord. 347 §1, 2008)

Sec. 4-3-60. Location of business.

(a) For the purpose of this Article, all retail sales shall be considered consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his or her agent to a destination outside the City limits or to a common carrier for delivery to a destination outside the City limits.

(b) In the event that the retailer has no permanent place of business in the City, or more than one (1) place of business, the place or places at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by the rules and regulations promulgated by the Colorado Department of Revenue. (Ord. 201 §5, 1976; Ord. 347 §1, 2008)

Sec. 4-3-70. Collection, administration and enforcement.

(a) The collection, administration and enforcement of the sales tax imposed by this Article shall be performed by the Executive Director of the Colorado Department of Revenue, in the same manner as the collection, administration and enforcement of the state sales tax. The provisions of Article 26 of Title 39, C.R.S., shall govern the collection, administration and enforcement of sales taxes authorized under this Article.

(b) All provisions of Article 26 of Title 39, C.R.S., concerning liability for tax, rules and regulations, tax on motor vehicles, exemptions, interest on deficiencies, investigation, records of sales, tax liens, recovery of taxes, penalty and

interest, decisions of the director, notices and other provisions pertinent to the collection, enforcement and incidence of said tax by the City are incorporated herein by reference and made applicable to the provisions of this Article, unless specifically otherwise provided herein. (Ord. 201 §5, 1976; Ord. 347 §1, 2008)

Sec. 4-3-80. Penalties.

Any person violating any provisions or failing to comply with the mandatory requirements of this Article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished in accordance with the provisions of Section 1-4-20 of this Code. Nothing contained in this Section shall be deemed to preempt the right of the State, in the alternative, to prosecute such violators under the provisions of Article 26 of Title 39, C.R.S. (Ord. 201 §5, 1976; Ord. 347 §1, 2008)

CHAPTER 5

Franchises and Communication Systems

Article 1 Cable TV System Franchise

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ARTICLE 1

Cable TV System Franchise

Sec. 5-1-10. Definitions.

For the purpose of this franchise, the following words and phrases shall have the meaning given in this Article. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word *shall* is mandatory and *may* is permissive. Words not defined in this Section shall be given their common and ordinary meanings:

Cable television service means *cable service* as defined by the Communications Act, 1934, as amended, including data and voice.

Cable television system means *cable system* as defined by the Communications Act, 1934, as amended, including data and voice.

City means the municipality of Creede, known as City of Creede, a Colorado Town and City of Creede, Mineral County, Colorado, and includes the territory as currently is or may in the future be included within the boundaries of the City of Creede.

Company means ICE Cable Holdings, LLC, and its successors and assigns.

Facilities means all facilities reasonably necessary to provide cable television service within and through the City and includes plants, works, systems, lines, equipment, underground links, switches, wires and radio links.

Streets and other public places means streets, alleys, viaducts, bridges, roads, lanes, easements, public ways and other public places in the City. (Prior agmt. 7-1-2002; Ord. 347 §1, 2008)

Sec. 5-1-20. Grant of franchise.

The City hereby grants to the Company the right to furnish, sell and distribute cable television service to the City and to all persons, businesses and industries within the City limits, a nonexclusive right to acquire, construct, install, locate, maintain, operate and extend into, within and through the City all facilities reasonably necessary to provide cable television service; and a nonexclusive right to make reasonable use of all streets and other public places as may be necessary to carry out the terms of this Article. (Prior agmt. 7-1-2002)

Sec. 5-1-30. Term of franchise.

The term of this franchise shall be for ten (10) years, beginning on the effective date as set out herein and in the enabling ordinance. (Prior agmt. 7-1-2002)

Sec. 5-1-40. Amendment.

This franchise may be amended by written amendment signed by both parties. (Prior agmt. 7-1-2002)

Sec. 5-1-50. Renewal.

This franchise may be renewed for a like ten-year term ten (10) years from the passage of the ordinance codified herein, upon notice from the Company and agreement by the City to renew tendered by the Company before thirty (30) days prior to the end of this franchise and any extensions thereto, unless the Company shall not be in substantial compliance with the material terms of this franchise. Notwithstanding and without

prejudice to the above, either party may timely invoke applicable provisions of the Communications Act of 1934, as amended, for renewing this franchise. Unless renewed as outlined above, this franchise will lapse. The City must approve any transfer of ownership. (Prior agmt. 7-1-2002; Ord. 347 §1, 2008)

Sec. 5-1-60. Purchase of system.

If at any time the Company elects to terminate or ceases the provisions of the cable TV service as described herein, within the City, or the franchise is terminated by its own terms or by the City as a result of default of terms of this franchise, the City shall have the option to purchase the system at fair market value. A reputable appraiser shall determine the fair market value. Both the City and the Company shall agree upon the selection of the appraiser or each will select one (1) and the two (2) shall select a third, if the parties cannot agree on a single appraiser. (Prior agmt. 7-1-2002)

Sec. 5-1-70. Noncompliance.

No party shall be deemed in noncompliance of this franchise unless it has been provided notice and opportunity to cure such noncompliance within ninety (90) days of such notice and has not undertaken action towards curing such noncompliance within such period. If either party is in substantial noncompliance with the material terms or conditions of this franchise, the compliant party may obtain any and all relief appropriate, including seeking a judicial decree for specific performance or revocation of the franchise. The successful party in a judicial action seeking relief for breach shall be entitled to its reasonable costs and attorney's fees. (Prior agmt. 7-1-2002)

Sec. 5-1-80. Assignment of franchise.

This franchise cannot be assigned without approval of the City. (Prior agmt. 7-1-2002)

Sec. 5-1-90. Franchise fee.

In consideration for the grant of this franchise, the Company shall pay as an annual franchise fee to the City a sum equal to five percent (5%) of the Company's annual gross revenues collected from the provision of cable television service in the franchised area. (Prior agmt. 7-1-2002)

Sec. 5-1-100. Payment schedule.

For the franchise fee owed on revenue received after the effective date of this franchise, payment shall be made in quarterly installments due on or before the last day of the month following the end of each calendar year quarter. Payments at the beginning and end of the term of this franchise shall be prorated. All payments shall be made to the City Clerk. (Prior agmt. 7-1-2002)

Sec. 5-1-110. Franchise fee payment in lieu of other fees.

Payment of the franchise fee by the Company is accepted by the City in lieu of any occupancy tax, license tax, permit charge, inspection fee or similar tax, assessment or excise upon the privilege of doing business or in connection with the physical operation thereof, but does not exempt the Company from any lawful taxation upon its real property, sales and use taxes or any other tax not related to the franchise or the physical operation thereof. (Prior agmt. 7-1-2002)

Sec. 5-1-120. Conduct of business.

The Company may establish, from time to time, such rates, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its

obligations under this franchise; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the laws of the State and the Federal Communications Commission ("FCC"), or any successor agency. (Prior agmt. 7-1-2002)

Sec. 5-1-130. Compliance with FCC regulations.

The Company shall comply with all applicable rules and regulations adopted by the FCC. (Prior agmt. 7-1-2002)

Sec. 5-1-140. Provision of service.

The Company shall provide cable television service in accordance with the Schedule of Rates and Charges, attached to the Franchise Agreement, a copy of which is on file in the office of the City Clerk, as may be amended from time to time and approved by the City. The Company shall provide a cable television system having a capacity of thirty-five (35) channels capable of distributing video and associated audio on each channel that is programmed. (Prior agmt. 7-1-2002; Ord. 347 §1, 2008)

Sec. 5-1-150. Additions, reductions and changes of programming.

The Company shall not delete or so limit as to effectively delete any broad category of programming. The Company shall consult at least once a year and cooperate with the City in developing and implementing a policy for the ascertainment of programming to respond to the needs and satisfaction of its customers. (Prior agmt. 7-1-2002)

Sec. 5-1-160. Fee schedule.

The Company shall not exceed the fees noted on the Schedule of Rates and Charges, attached to the Franchise Agreement, a copy of which is on file in the office of the City Clerk, as the

same from time to time is amended. At such time as the City is allowed by law to regulate fees, this franchise will not preclude such regulation. In any case, the Company will coordinate and consult with the City regarding any change in programming or fee schedule. (Prior agmt. 7-1-2002; Ord. 347 §1, 2008)

Sec. 5-1-170. Location of facilities.

The Company's facilities shall not interfere with the City's water mains, sewer mains, gas mains or other municipal use of streets and other public places. The Company's facilities shall be located so as to cause minimum interference with public use of streets and other public places and shall be maintained in good repair and condition. (Prior agmt. 7-1-2002)

Sec. 5-1-180. Excavation and construction.

All construction, excavation, maintenance and repair work done by the Company shall be done in a timely and expeditious manner, which minimizes the inconvenience to the public and individuals. All such construction, excavation, maintenance and repair work done by the Company shall comply with all applicable codes of the City, the State and the United States of America. All public and private property disturbed by the Company's construction or excavation activities shall be restored as soon as practicable by the Company at its expense to substantially its former condition. The Company shall comply with the City's request for reasonable and prompt action to remedy all damages to public or private property, adjacent lots, streets or dedicated easements where the Company is performing construction, excavation, maintenance or repair work. The City reserves the right to restore property and remedy damages caused by the Company activities at the expense of the Company, in the event the Company fails to perform such work within a reasonable time after notice from the City. Before

beginning any construction or excavation within City roads or streets, the Company shall comply with all City road cut and construction permit requirements. (Prior agmt. 7-1-2002)

Sec. 5-1-190. Relocation of Company facilities.

If at any time the City reasonably requests the Company to relocate any distribution line, service connection or other facility installed or maintained in streets or other public places in order to permit the City to change street grades, pavements, sewers, water mains or other City works, such relocation shall be made by the Company at its expense. The Company is not obligated hereunder to relocate any facilities at its expense, which were installed in private easements obtained by the Company, the underlying fee of which was, at some point subsequent to installation, transferred to the City, unless such fee is transferred to the City for public right-of-way purposes. Following relocation, the Company at its expense shall restore all property to substantially its former condition. The City will reasonably exhaust alternatives not requiring relocation in all cases. (Prior agmt. 7-1-2002)

Sec. 5-1-200. Service to new areas.

If, during the term of this franchise, the boundaries of the City are extended, the Company shall extend service to the newly annexed areas. Service to annexed areas shall be in accordance with the terms of this franchise, including payment of franchise fees, and in accordance with the rules and regulations of the FCC. If the newly annexed area is undeveloped, the Company shall extend service and facilities upon the installation of other utilities to serve the area. If the newly annexed area is developed, service shall be extended within one (1) year of annexation. The new areas must have at least twenty (20) homes per route mile. (Prior agmt. 7-1-2002)

Sec. 5-1-210. Restoration of service.

In the event the Company's communications facility or any part thereof is partially or wholly destroyed or incapacitated, the Company shall use due diligence to restore its system to satisfactory service within the shortest practicable time subject to availability of functioning poles, ducts and other rights-of-way used by the communications facility. (Prior agmt. 7-1-2002)

Sec. 5-1-220. Rules and regulations.

All lines and equipment constructed under this grant shall be constructed in accordance with established practices as prescribed by the FCC and its duly or legally constituted successors in authority; and the rights and privileges herein granted in said streets and other public places shall be subject at all times to such ordinances and reasonable regulations and road cut permit procedures as are now or shall hereafter be ordained or passed by the Town concerning similar use and excavations of streets and other public places. (Prior agmt. 7-1-2002)

Sec. 5-1-230. Safety regulations by City.

The City reserves the right to adopt from time to time reasonable regulations in the exercise of its police power, which are necessary to ensure the health, safety and welfare of the public, provided that such regulations are not destructive of the rights, granted herein. The Company agrees to comply with all such reasonable regulations now existing or duly adopted, in the construction, maintenance and operation of its facilities and in the provisions of telecommunications services within the City. (Prior agmt. 7-1-2002)

Sec. 5-1-240. Inspection, audit and quality control.

The City shall have the right to inspect, at all reasonable times, any portion of the facilities. The City shall also have the right to inspect and

conduct an audit of Company records relevant to compliance with any terms of this franchise at all reasonable times, but no more than once per year. The Company agrees to cooperate with the City in conducting the inspection and/or audit and to correct any discrepancies affecting the City's interest in a prompt and efficient manner. The City shall pay the cost of such audit, provided that no irregularities are found. (Prior agmt. 7-1-2002)

Sec. 5-1-250. City held harmless; insurance.

The Company shall maintain its facilities as to afford all reasonable protection against injury or damage to persons or property therefrom, and the Company shall save and hold the City harmless from all liability or damage and all reasonable expenses necessarily incurred by the City arising out of the exercise by the Company of the rights and privileges hereby granted, provided that such liability or damage was not caused by the City. The Company shall maintain public liability insurance in an amount not less than one million dollars (\$1,000,000.00), and the City shall be identified as a named insured of the Company on said public liability insurance. Upon request of the City, the Company shall furnish to the City Attorney evidence from its insurance carriers, which demonstrates compliance with this Section, as a confidential document. The City will provide notice to the Company of the pendency of any claim or action against the City arising out of the exercise by the Company of its franchise rights. The Company will be permitted, at its own expense, to appear and defend or to assist in defense of such claim. (Prior agmt. 7-1-2002)

Sec. 5-1-260. Notice to Company.

The City will provide notice to the Company of the pendency of any claim or action against the City arising out of the exercise by the Company of its franchise rights. The Company will

be permitted, at its own expense, to appear and defend or to assist in defense of such claim. (Prior agmt. 7-1-2002)

Sec. 5-1-270. Payment of expenses.

The Company shall pay for all expenses relating to the publication of notice and ordinances arising out of the process for obtaining this franchise. (Prior agmt. 7-1-2002)

Sec. 5-1-280. Franchise performance bond.

(a) Concurrent with the execution of this franchise, the Company has deposited with the City a franchise bond acceptable to the City in the amount of ten thousand dollars (\$10,000.00). The franchise bond shall be used to guarantee the faithful performance by the Company of all provisions of this franchise and the payment by the Company of any claims, liens and operation or maintenance costs of the facilities.

(b) The franchise bond shall be maintained at ten thousand dollars (\$10,000.00) during the entire term of this franchise, even if amounts have to be withdrawn pursuant to Subsection (a) or (c) of this Section.

(c) If the Company fails to pay to the City any compensation within the time fixed herein; fails to pay to the City any taxes when due; fails to repay the City any damages, costs or expenses which the City is compelled to pay by reason of any act or default of the Company in connection with this franchise; or fails to comply with any provision of this franchise which the City reasonably determines can be remedied by demand on the franchise bond, the City may, following fourteen (14) days' written notice to the Company, request payment of the amount thereof, with interest and any penalties, from the franchise bond.

(d) The rights reserved to the City with respect to the franchise bond are in addition to all other rights of the City, whether reserved by this franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such franchise bond shall affect any other right the City may have.

(e) The City may, in its sole discretion, waive the franchise bond requirements, reduce the amount required thereunder or, with the agreement of the Company, provide for an alternative form of guarantee, if performance by the Company, its successors or assigns, in the sole opinion of the City, warrants such revision. The City may, at any time at its sole discretion, reinstate the requirements of the franchise bond as provided herein. (Prior agmt. 7-1-2002)

ARTICLE 2

Electric Franchise

Sec. 5-2-10. Definitions.

Whenever the word *City* is hereinafter employed, it shall designate the City of Creede, a Colorado Town, Mineral County, Colorado, the grantor, and whenever the word *Cooperative* is used, it shall designate not only San Luis Valley Rural Electric Cooperative, Inc., a Colorado corporation, the grantee, but also its successors and assigns. (Ord. 276 Art. I, 1990)

Sec. 5-2-20. Grant of franchise.

There is hereby granted to the Cooperative the right, privilege and authority to locate, build, construct, acquire, purchase, extend, maintain and operate into, within and through the City a plant or plants, substations and works for the purchase, generation, transmission and distribution of electrical energy, with the right and privilege for the period and upon the terms and

conditions hereinafter specified to furnish, sell and distribute said electrical energy to the City and the inhabitants thereof, for light, heat and power or other purposes, by means of conduits, cables, poles with wires strung thereon, or otherwise on, over, under, along, across and through any and all streets, alleys, viaducts, bridges, roads, lanes and other public ways and places in the City and on, over, along, across and through any extension, connection with or continuation of the same and/or on, over, under, along, across and through any and all such new streets, alleys, viaducts, bridges, roads, lanes and other public ways and places as may be hereafter laid out, opened, located or constructed within the territory now or hereafter included in the boundaries of the City. (Ord. 276 Art. II §1, 1990)

Sec. 5-2-30. Location of facilities.

The Cooperative is further granted the right, privilege and authority to excavate in, occupy and use any and all streets, alleys, viaducts, bridges, roads, lanes and other public ways and places under the supervision of properly constituted authority, including the ordinances, rules and regulations of the City, for the purpose of bringing electrical energy to the City and the inhabitants thereof and in the territory adjacent thereto; provided, however that the Cooperative shall so locate its plants, substations, works, transmission and distribution structures, lines, equipment and conduits within the City as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with rights or reasonable convenience of property owners whose property adjoins any of said streets, alleys or other public ways and places. Should it become necessary for the Cooperative, in exercising its rights and performing its duties hereunder, to interfere with any sidewalk, pavement or any other public or private improvement, the Cooperative shall repair in a

workmanlike manner such sidewalk, graveled or paved street, road, alley or other public improvement after the installation of its poles, conduits or other structures. The Cooperative shall use due care not to interfere with or damage any water mains, sewers or other structures now or which may hereafter be placed in said streets, alleys or other public places, and will set no poles or other structures in the paved portions of the streets now traversed by U.S. Highway No. 149. (Ord. 276 Art. II §2, 1990)

Sec. 5-2-40. Maintenance of facilities.

The Cooperative shall so maintain its structures, apparatus, equipment, poles, wires and conduits as to afford all reasonable protection against injury or damage to persons or property therefrom, and the Cooperative shall save the City harmless from all liability or damage and all reasonable expenses, including reasonable attorney's fees and costs necessarily accruing against the City arising out of the willful, wanton or negligent exercise by the Cooperative of the rights and privileges hereby granted; provided that the Cooperative shall have had notice of the pendency of any action against the City arising out of such exercise by the Cooperative of said rights and privileges and permitted at its own expense to appear and defend or assist in the defense of the same. (Ord. 276 Art. II §3, 1990)

Sec. 5-2-50. Relocation of facilities.

If at any time it shall be necessary to change the position of any pole, conduit or service connection of the Cooperative to permit the City to lay, make or change street grades, pavements, sewers, water mains or other City works, such changes shall be made by the Cooperative at its own expense. (Ord. 276 Art. II §4, 1990)

Sec. 5-2-60. Use of facilities.

The City shall have the right, without cost, to use all poles of the Cooperative within the City for the purpose of stringing wires thereof for its fire alarm and police signal system; provided, however, that the Cooperative assumes and shall be subject to no liability and shall be subject to no additional expense in connection therewith. It is further provided that the use of said poles by the City shall not interfere in any unreasonable manner with the Cooperative's use of the same. (Ord. 276 Art. II §5, 1990)

Sec. 5-2-70. Duties.

The Cooperative shall furnish electrical energy within the corporate limits of the City or any addition thereto, to the City and to such of the inhabitants thereof, or to any person, persons or corporations doing business in the City or any additions thereto, in accordance with such rules and regulations and upon conditions as the Cooperative may by order of its Board of Directors establish. Such electrical energy shall be furnished at the rates and under the terms and conditions established by the Board of Directors of the Cooperative for service to like members as on file in the office of the Cooperative at Monte Vista, Colorado, subject to any regulations, which may be prescribed by any competent authority having jurisdiction in the premises. The electrical energy which the Cooperative will furnish as herein provided will be single-phase electric service, and nothing contained in this Article shall be construed to require or provide that the Cooperative will furnish three-phase service to any specific location. (Ord. 276 Art. III §1, 1990)

Sec. 5-2-80. Rate nondiscrimination.

The Cooperative shall not as to rates, charges, service, facilities, rules, regulations or in any other respect, make or grant any

preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage, provided that nothing in this grant shall be taken to prohibit the establishment from time to time of a graduated scale of charges and classified rate schedules to which any customer coming within an established classification would be entitled. (Ord. 276 Art. III §2, 1990)

Sec. 5-2-90. Extension of system.

The Cooperative will, from time to time during the term of this franchise, make such enlargements and extensions of its distribution system as the business of the Cooperative and the growth of the City justify, in accordance with rules and regulations prescribed by the Board of Directors of the Cooperative. (Ord. 276 Art. III §3, 1990)

Sec. 5-2-100. Promulgation of rules.

The Cooperative, from time to time, may promulgate such rules, regulations, terms and conditions governing the conduct of its business, including the utilization of electrical energy and payment therefor, and the interference with, or alteration of, any of the Cooperative's property upon the premises of its customers, as shall be necessary to ensure a continuous and uninterrupted service to each and all of its customers, and the proper measurement thereof and payment therefor, provided that the Cooperative shall keep on file in its office at Monte Vista, Colorado, available to the patrons of the Cooperative, copies of its Rate Schedules, Standards for Service, Rules and Regulations. Copies thereof shall also be filed with the City Clerk. (Ord. 276 Art. III §4, 1990)

Sec. 5-2-110. Regulation of installation and maintenance.

The City may, from time to time, enact suitable, reasonable and appropriate ordinances governing and requiring the proper and safe

installation and maintenance of electrical wiring of premises within the City; and in preparation of such ordinances, may consult with the engineers and technicians of the Cooperative, without charge for such service. (Ord. 276 Art. III §5, 1990)

Sec. 5-2-120. Franchise fee.

As a further consideration for this franchise, and acceptance by the City in lieu of all occupancy and license taxes and all other special taxes, assessments or excises upon the plant or system or other property of the Cooperative or ad valorem taxes, that might be imposed, either as a franchise tax, occupancy tax, license tax, permit charge or inspection fees, the Cooperative shall pay to the City a sum equal to two percent (2%) of its annual gross revenue derived from the sale of electrical energy within the corporate limits of the City, excluding the revenue arising from the sale of electrical energy to the City itself. (Ord. 276 Art. IV §1, 1990)

Sec. 5-2-130. Payment due date.

Payments of such revenue to the City shall be made on or before the first day of March of each calendar year during the term of this franchise, for the next previous calendar year, and shall be adjusted at the beginning and expiration of this franchise. (Ord. 276 Art. IV §2, 1990)

Sec. 5-2-140. Effective date.

This franchise shall be in full force and effect from and after the passage, approval and publication of the ordinance codified herein, as by law required, upon acceptance thereof in writing by the Cooperative on or before the tenth day after such publication, and the terms, conditions and covenants hereof shall remain in full force and effect for a period of twenty-five (25) years from and after such passage, approval, publication and acceptance thereof. (Ord. 276 Art. V §1, 1990)

Sec. 5-2-150. Removal of equipment.

Upon the expiration of this franchise, if the Cooperative shall not have acquired an extension of renewal thereof and accepted the same, it may have, and it is hereby granted, the right to enter upon the streets, alleys, bridges, viaducts, roads, lanes and other public places of the City, for the purpose of removing therefrom any or all of its plants, structures, conduits, cables, poles and wire or equipment pertaining thereto, at any time after the City has had ample time and opportunity to purchase, condemn or replace them. In so removing said conduits, cables, poles and wire, the Cooperative shall, at its own expense and in a workmanlike manner, refill any excavations that shall be made by it in the graveled or paved streets, alleys, bridges, viaducts, roads, lanes and other public places after the renewal of its poles, conduits or other structures. (Ord. 276 Art. V §2, 1990)

Sec. 5-2-160. Assignment of franchise.

Nothing in this Article shall be so construed as to prevent the Cooperative from assigning all of its right, title or interest, gained or authorized under or by virtue of the terms of this Article. (Ord. 276 Art. V §3, 1990)

Sec. 5-2-170. Police power.

The right is hereby reserved to the City to adopt, from time to time, in addition to the provisions herein contained, such ordinances as may be deemed necessary in the exercise of its police power, provided that such regulations shall be reasonable and not destructive of the rights herein granted, and not in conflict with the laws of the State, or with orders of other authorities having jurisdiction in the premises. (Ord. 276 Art. V §4, 1990)

Sec. 5-2-180. Reimbursement of costs.

The City requires that this franchise be received and approved by its attorney prior to adoption. All such costs of review and related expenses and the cost of all publications will be borne by the Cooperative. (Ord. 276 Art. V §5, 1990)

CHAPTER 6

Business Licenses and Regulations

Article 1 Alcoholic Beverage Licenses

- Sec. 6-1-10 Definitions
- Sec. 6-1-20 Application of state statutes
- Sec. 6-1-30 Power and purpose
- Sec. 6-1-40 Suspension or revocation; fine
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Article 2 Horse-Drawn Carriage Permits

- Sec. 6-2-10 Revocable permit required
- Sec. 6-2-20 Liability of employer
- Sec. 6-2-30 Indemnification of City
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- Sec. 6-2-80 Permit restrictions
- Sec. 6-2-90 Fees
- Sec. 6-2-100 Exemption
- Sec. 6-2-110 Insurance requirements

ARTICLE 1

Alcoholic Beverage Licenses

Sec. 6-1-10. Definitions.

(a) As used in this Article, unless the context indicates otherwise, certain words shall have the following meanings:

Retail license means a grant to a licensee to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 46 of Title 12, C.R.S.) or a grant to a licensee to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 47 of Title 12, C.R.S.).

Retail licensee or *licensee* means the holder of a license to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 46 of Title 12, C.R.S.) or the holder of a license to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 47 of Title 12, C.R.S.), who is engaged at any time during the calendar year in such operation in the City.

(b) All other terms shall be defined as set forth in the provisions of the Colorado Beer Code, the Colorado Liquor Code and Special Event Permits, as the definitions presently exist or may hereafter be amended. (Prior code 3-6-1; Ord. 347 §1, 2008)

Sec. 6-1-20. Application of state statutes.

Pursuant to declaration by the General Assembly, the Colorado Beer Code, Section 12-46-101, et seq., C.R.S., the Colorado Liquor Code, Section 12-47-101, et seq., C.R.S., and Special Event Permits, Section 12-48-101, et seq., C.R.S., as they presently exist or may hereafter be amended, shall apply to the sale of

fermented malt beverages, alcoholic beverages, special malt liquors, spirituous liquors and vinous liquors in the City. (Ord. 347 §1, 2008)

Sec. 6-1-30. Power and purpose.

The Board of Trustees hereby finds, determines and declares that it is empowered by Section 12-47-505, C.R.S., to fix and collect certain fees in connection with the application for issuance, transfer and renewal of certain types of beer, wine and liquor licenses. The Board of Trustees further finds that the fees imposed by the State are in amounts sufficient to cover actual and necessary expenses incurred by the City in connection with the handling of such licenses and applications therefor. (Prior code 3-6-3; Ord. 347 §1, 2008)

Sec. 6-1-40. Suspension or revocation; fine.

(a) Whenever a decision of the Board of Trustees, acting as the Local Licensing Authority (hereinafter "Authority"), suspending a retail license for fourteen (14) days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the suspension, petition the Authority for permission to pay a fine in lieu of having his or her retail license suspended for all or part of the suspension period. Upon the receipt of the petition, the Authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made, which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

(1) That the public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;

(2) That the books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and

(3) That the retail licensee has not had his or her license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

(b) The fine accepted shall be equivalent to twenty percent (20%) of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; except that the fine shall be not less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00).

(c) Payment of any fine pursuant to the provisions of this Section shall be in the form of cash, certified check or cashier's check made payable to the City Clerk and shall be deposited in the General Fund of the City.

(d) Upon payment of the fine pursuant to this Section, the Authority shall enter its further order permanently staying the imposition of the suspension.

(e) In connection with any petition pursuant to this Section, the authority of the Authority is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(f) If the Authority does not make the findings required in Subsection (a) above and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Authority. (Ord. 347 §1, 2008)

Sec. 6-1-50. Optional premises.

(a) Optional premises license and optional premises for a hotel and restaurant license may be issued by the Authority.

(b) The following standards shall be applicable to the issuance of a license under this Section, in addition to all other applicable standards set forth in the Colorado Liquor Code for optional premises license and optional premises for a hotel and restaurant license.

(1) Eligible facilities. Outdoor sports and recreational facilities as defined in Section 12-47-103(13.5), C.R.S., are eligible for licensing as an optional premise or optional premises for a hotel and restaurant.

(2) Number of optional premises. There are no restrictions on the number of optional premises which any one (1) licensee may have on an outdoor sports or recreational facility.

(3) Minimum size of facility. There is no restriction on the minimum size of an outdoor sports or recreational facility, which would be eligible for issuance of an optional, premises license or optional premises for a hotel and restaurant license.

(c) The application for an optional premises license or optional premises for a hotel or restaurant license shall be accompanied by the following:

(1) A map or other drawing illustrating the outdoor sports or recreational facility boundaries and the approximate location of each optional premises requested;

(2) A description of the method which shall be used to identify the boundaries of the optional premises when it is in use; and

(3) A description of the provisions which have been made for storing malt, vinous and spirituous liquors in a secured area on or off the optional premises for the future use on the optional premises. (Ord. 347 §1, 2008)

Sec. 6-1-60. Educational requirements.

Every hotel and restaurant licensee, registered manager and licensee's employee is encouraged to obtain a certificate of completion from an educational program of training for intervention procedures for servers of alcohol. Those registered managers obtaining a certificate of completion may file a copy of the certificate of completion with the Authority with an application of renewal of a liquor license. (Ord. 347 §1, 2008)

ARTICLE 2

Horse-Drawn Carriage Permits

Sec. 6-2-10. Revocable permit required.

It shall be unlawful for any person to drive or be permitted to drive a horse-drawn carriage on the streets of the City; provided, however, that the Board of Trustees may issue permits for said activities, subject to such reasonable rules and regulations as the Board of Trustees may impose by resolution. (Ord. 298 §2, 1994)

Sec. 6-2-20. Liability of employer.

Any person employing any employee shall also be liable for the violation of any provision of this Article by the employee. (Ord. 298 §2, 1994; Ord. 347 §1, 2008)

Sec. 6-2-30. Indemnification of City.

The holder of any permit issued under the terms of this Article shall always release and indemnify, defend and save harmless the City, its officers, agents and employees from and against any and all claims, actions, causes of action, demands, judgments, costs, expenses and attorney's fees and all damages of any kind and nature incurred by or inuring to any person whatsoever predicated upon injury to or death of any person; damaged property, public, private or whatever ownership; or damaged business; provided that such injury, death, loss or damage shall arise out of or be connected directly or indirectly with the exercise of any right or privilege granted by such a permit. (Ord. 298 §2, 1994; Ord. 347 §1, 2008)

Sec. 6-2-40. Rules and regulations.

The Board of Trustees shall promulgate rules and regulations by resolution, establishing the appropriate hours of operation and the acceptable areas and streets in which horse-drawn carriages may be operated. It shall be unlawful for any person to operate a horse-drawn carriage at other times or locations than those permitted. A copy of the rules and regulations promulgated by the Board of Trustees is available for inspection at the office of the City Clerk during usual business hours. A violation of any rule or regulation shall constitute a violation of this Code. (Ord. 298 §2, 1994; Ord. 347 §1, 2008)

Sec. 6-2-50. Application for permit.

An application for a permit hereunder shall include the following information:

- (1) The name, address and telephone number of the applicant;
- (2) The number of carriages to be operated;

(3) A general description of the area and streets in which the carriage is to be operated; and

(4) Such other information as the Board of Trustees may require. (Ord. 298 §2, 1994)

Sec. 6-2-60. Permit not transferable.

Any permit issued shall be nontransferable, valid for a period of not more than twelve (12) months after the date of issuance, may be revoked without cause, and shall be displayed on the carriage. Any permit holder may apply for a renewal permit in the same manner as an original application. (Ord. 298 §2, 1994)

Sec. 6-2-70. Knowledge of subject.

No permit shall be issued to any applicant unless it is found that the applicant has demonstrated knowledge of horses, carriages and the handling of the combination. (Ord. 298 §2, 1994)

Sec. 6-2-80. Permit restrictions.

A person to whom a permit has been issued hereunder is subject to the following restrictions:

(1) The driver or operator of a horse-drawn carriage must have a valid operator's license to operate a motor vehicle.

(2) The permittee shall maintain the equipment and horses in a clean and safe condition.

(3) The permittee shall immediately notify the City Clerk of any change of address or substantial change in equipment or circumstances. (Ord. 298 §2, 1994)

Sec. 6-2-90. Fees.

The fees for permits under this Article shall be as follows:

(1) Nonrefundable application fee of fifty dollars (\$50.00).

(2) Annual permit fee of ten dollars (\$10.00). (Ord. 298 §2, 1994)

Sec. 6-2-100. Exemption.

Any person driving a horse-drawn carriage in a duly authorized parade or special event authorized by the Board of Trustees shall be exempt from the provisions of this Article. (Ord. 298 §2, 1994)

Sec. 6-2-110. Insurance requirements.

No permit shall be issued or remain in effect unless the permittee, at his or her expense and without cost to the City, shall procure and maintain in force and on file with the City Clerk sufficient evidence of a general liability policy naming the City as an additional insured, covering bodily injury including death, in the amount of three hundred thousand dollars (\$300,000.00) combined single limit. Such insurance coverage constitutes a minimum requirement and shall in no way be deemed to limit or lessen the liability of the permittee under the terms of such permit. An endorsement shall be included on the required policy, providing for thirty (30) days' notice to the City in the event of any material change or cancellation. (Ord. 298 §2, 1994)

CHAPTER 7

Health, Sanitation and Animals

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ARTICLE 1

**Administration and
Abatement of Nuisances**

Sec. 7-1-10. 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 shrubbery growth which may conceal filthy deposits.

Garbage means and includes any and all rejected or waste food, meat, vegetable, fruit, offal, swill, carrion and other like materials from any source.

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.

Refuse means and includes any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, rubbish containers, boxes, glass, cans, bottles, garbage, waste and discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material; all rubbish of any kind or nature whatsoever; and any other materials commonly known as *rubbish* or refuse of any kind or character or by any means known.

Rubbish means inorganic refuse matter, such as tin cans, glass, ashes, sweepings, yard trash and other like material.

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

Waste means garbage, rubbish and trash.

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. (Prior code 12-1-1, 12-2-1; Ord. 347 §1, 2008; Ord. 346 §2, 2009)

Sec. 7-1-20. Common law nuisances.

- (a) Anything which is injurious to the health or morals, indecent or offensive to the senses or an obstruction to the free use of

property so to interfere with the comfortable enjoyment of life or property is declared a nuisance and as such shall be abated.

(b) In addition, any other 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. (Prior code 10-1-1; Ord. 347 §1, 2008)

Sec. 7-1-30. Powers of County Health Department.

The County Health Department has the full power to take all measures necessary to promote health and cleanliness; to abate all nuisances of every description on public and private property; to prevent the introduction or spreading within the City of malignant, contagious and infectious diseases; to remove, detain, isolate or quarantine any person exposed to, attacked by or having any such disease; and to promulgate such rules and regulations as may be necessary to perform its functions. The County Health Department shall have the authority to enforce such rules of the Colorado Department of Public Health and Environment as are applicable to particular situations. (Prior code 10-1-2; Ord. 347 §1, 2008)

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

Any state of things prohibited by this Chapter shall be deemed a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed to be the author thereof. (Prior code 10-1-3)

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

No person being the owner, agent or occupant of, or having under his or her control, any building, lot, premises or unimproved real

estate within the limits of the City, shall maintain or allow any nuisance to be or remain therein. (Ord. 347 §1, 2008)

Sec. 7-1-60. Ascertaining nuisances.

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things shall, upon investigation, be considered by the City Manager dangerous to the health of any of the inhabitants of the City, the same shall be considered a nuisance and shall be abated. (Ord. 347 §1, 2008)

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

In the case of any nuisance in or upon any street, alley or other public or private grounds or premises, the author thereof, whether he or she is the owner thereof, in or upon which any such nuisance shall exist or may be found, shall be deemed guilty of a separate offense for every period of forty-eight (48) hours' continuance of such nuisance after due notice has been given to abate the same. (Prior code 10-1-3; Ord. 347 §1, 2008)

Sec. 7-1-80. Filing complaint.

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any person or police officer against any person who violates any provision of this Chapter. (Ord. 347 §1, 2008)

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

(a) Notice to abate. In all cases where a nuisance shall be found in any building or upon any grounds or other premises within the jurisdiction of the City, written notice of forty-eight (48) hours may be given in writing, signed by the City Manager, and served by the Chief of Police or other officers as he or she may designate to the owner of said premises or the

occupant or person in possession, charge or control of such building or other premises where he or she is known and can be found, to abate such nuisance and comply with the requirements of this Chapter. However, in the case where accumulated refuse has been deemed to be the nuisance, the City Manager shall require the removal of such accumulated refuse within thirty (30) days of such notice.

(b) Declaration of nuisance. In the event that any such nuisance, within or upon any public or private premises or grounds, is not abated forthwith after the notice herein provided has been given, the Board of Trustees may declare the same to be a nuisance and order the Chief of Police to abate the same, which order shall be executed without delay.

(c) Abatement without notice. 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 City Manager may abate the same forthwith without such notice being given.

(d) Assistance to abate authorized. The Chief of Police or any officer who is 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) Recovery of expenses. The expense incurred by the City in abating any nuisance may be recovered by proper action from the author thereof. (Prior code 10-1-3—10-1-7; Ord. 347 §1, 2008)

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

The Mayor, Chief of Police, Trustees or any other person who may be directed or deputized by the Board of Trustees may enter upon or into

any lot, house or other building or premises, with the proper respect for the occupant's constitutional rights, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action or liability on account thereof. (Prior code 10-1-8)

Sec. 7-1-110. Cumulative remedies.

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge, conviction or violation of this Chapter in the Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist. (Ord. 347 §1, 2008)

Sec. 7-1-120. Concurrent remedies.

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law. (Ord. 347 §1, 2008)

Sec. 7-1-130. Violations and penalties.

Any person who violates any of the provisions of this Chapter shall be subject to the provisions of Section 1-4-20 of this Code. (Prior code 10-1-9; Ord. 347 §1, 2008)

ARTICLE 2**Nuisances Enumerated****Sec. 7-2-10. Accumulation to constitute nuisances.**

Whenever there shall be in or upon any lot or piece of ground within the limits of the City any damaged merchandise, 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 in Chapter 16 of this Code for said purposes or otherwise designated by the City for such purposes, the existence of any such material or items shall constitute a nuisance and shall be a violation of this Article. (Ord. 347 §1, 2008)

Sec. 7-2-20. Posting 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 10-2-11; Ord. 347 §1, 2008)

Sec. 7-2-30. Streets, streams and water supply.

(a) Streets. It shall be unlawful to throw or deposit, or cause or permit to be thrown or deposited, any offal composed of animal or vegetable substance or both, any dead animal, excrement, garbage or other offensive matter upon any street, avenue, alley, sidewalk or public or private grounds.

(b) Waterworks. It shall be unlawful for any person to throw or discharge into the waterworks of the City, including but not limited to all reservoirs, streams, ditches, inlets, pipes, drains, filters, sedimentation basins or other equipment or appliance used in the construction, maintenance or operation of the same, any obnoxious substance which is subject to decay in or pollute the waters thereof or reasonably threaten to pollute the waters thereof.

(c) Livestock. It shall be unlawful for any person to allow any livestock, or any animals of any kind, to graze within two hundred fifty (250) yards of any such open waterworks of the City, including but not limited to all reservoirs or collection points of water for distribution, streams, trenches, inlets, pipes or drains.

(d) No person shall throw or deposit or cause or permit to be thrown or deposited in the City anything specified in any foregoing part of this Section, or any other substance that would tend to have a polluting effect, into the water of any stream, ditch, pond, well, cistern, trough or other body of water, whether artificially or naturally created, or so near any such place as to be liable to pollute the water. (Prior code 10-3-6; Ord. 212 §§2—4, 1977; Ord. 347 §1, 2008)

Sec. 7-2-40. Stagnant ponds.

(a) Any cellar, vault, drain, sewer, pond of water or other place upon or within any private premises or grounds in the City, that is nauseous or offensive to others or injurious to public health, through an accumulation or deposition of nauseous offensive or foul water or other substances, shall be deemed a nuisance. This applies in all cases for which no other specific provisions are made in this Chapter.

(b) The permitting of stagnant water on any lot or piece of ground within the City limits is hereby declared to be a nuisance, and every owner or occupant of a lot or piece of ground within the City is hereby required to drain or fill up said lot or piece of ground whenever the same is necessary so as to prevent stagnant water or other nuisances from accumulating thereon. It is unlawful for any such owner or occupant to permit or maintain any such nuisance. (Prior code 10-2-8; Ord. 347 §1, 2008)

Sec. 7-2-50. Sewer inlet.

It shall be unlawful to deposit in or throw into any sewer (sanitary or storm), sewer inlet or privy vault that shall have a sewer connection any article that might cause such sewer, sewer inlet or privy vault to become nauseous or offensive to others or injurious to public health. (Prior code 10-2-5; Ord. 347 §1, 2008)

Sec. 7-2-60. Nauseous liquids.

It shall be unlawful to discharge or permit to be discharged out of or from, or permit to flow from, any house, property or place, any foul or nauseous liquid or substance of any kind whatsoever into or upon any adjacent ground or lot or into any street, alley or public place in the City. (Prior code 10-2-3; Ord. 347 §1, 2008)

Sec. 7-2-70. Stale matter.

It shall be unlawful to keep, collect or use, or cause to be kept, collected or used, in the City any stale, putrid or stinking fat, grease or other stale matter, other than normal weekly trash accumulation. (Prior code 10-2-4; Ord. 347 §1, 2008)

Sec. 7-2-80. Littering on streets or transporting garbage, manure.

(a) No person shall drive or move any truck or other vehicle within the City unless such vehicle is constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

(b) Every vehicle or trailer used to transport manure, garbage, swill or offal in any street in the City shall be fitted with a substantial tight box thereon so that no portion of such filth will be scattered or thrown into such street. (Prior code 10-3-8; Ord. 347 §1, 2008)

Sec. 7-2-90. Dumping on property.

It is unlawful for any person to use any land, premises or property within the City for the dumping or disposal of any garbage, trash, litter, rubbish, offal, filth, excrement, discarded building materials or combustible materials of any kind without first having made application for and receiving a permit to do so. The application therefore shall be filed with the City Clerk and shall state the location of the land, premises or property, the manner in which the dumping or disposal is to be accomplished and the means and methods by which the applicant proposes to secure the same against the danger of disease, fire and other menaces to the public health and to provide for the suppression of rodents, mosquitoes and other insects. Upon such investigation and a finding that the proposed dumping will not cause any danger to the public health, the City Clerk shall issue such a permit upon the payment of a fee, with the approval of the Board of Trustees. (Ord. 347 §1, 2008)

Sec. 7-2-100. Dead animal removal.

When any animal dies in the City, it shall be the duty of the owner or keeper thereof to properly dispose of the body of the animal. If such body is not forthwith 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 is in any street, highway or public grounds in the City, it shall be the duty of the Chief of Police to cause such body to be removed forthwith beyond the City limits. (Prior code 10-2-7; Ord. 347 §1, 2008)

Sec. 7-2-110. Inoperable vehicles.

It is unlawful for any person or agent, either as owner, lessee, tenant or occupant of any lot or land within the City, to park, store or deposit or permit to be parked, stored or deposited thereon an inoperable vehicle unless such vehicle is enclosed in a garage or other building. The provisions of this Section shall not apply to any person or agent with one (1) vehicle inoperable for a period of less than thirty (30) consecutive days, or to any person who is conducting a business enterprise in compliance with existing zoning regulations. (Ord. 347 §1, 2008)

Sec. 7-2-120. Junkyards and dumping grounds.

All places used or maintained as junkyards or dumping grounds; for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind; for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, trailers, boats and house trailers or machinery of any kind, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons; which places are kept in such manner as to

essentially interfere with the comfortable enjoyment of life or property by others, are hereby declared to be a nuisance. (Prior code 10-2-2)

Sec. 7-2-130. Slaughterhouses.

No slaughterhouse or other place for slaughtering animals shall be kept within the City. (Prior code 10-2-6)

Sec. 7-2-140. Vacant residential dwellings.

The owner, or agent shall replace all broken windows in a vacant dwelling within seventy-two (72) hours after the Chief of Police gives notice. (Ord. 347 §1, 2008)

Sec. 7-2-150. Open wells, cisterns or excavations.

Excavations exceeding five (5) feet in depth, cisterns and wells or an excavation used for storage of water are public nuisances unless the same are adequately covered with a locked lid or other covering weighing at least sixty (60) pounds, or are securely fenced with a solid fence to a height of at least five (5) feet. It shall be unlawful for any person to permit such nuisance to remain on premises owned or occupied by him or her. (Prior code 10-2-9; Ord. 347 §1, 2008)

Sec. 7-2-160. Nonexclusive nuisances.

The above-enumerated provisions of this Article are in no way deemed to be exclusive; and anything declared a nuisance under Section 7-1-20 above shall be abated in accordance with the provisions contained therein and, in addition, subject to the penalties provided for in Section 7-1-130 of this Chapter. (Prior code 10-2-12)

ARTICLE 3

Refuse Regulations

Sec. 7-3-10. Accumulation of refuse prohibited.

Any accumulation of refuse or other material on any premises, improved or unimproved, in the City is prohibited and is hereby declared to be a nuisance. (Prior code 12-1-2; Ord. 347 §1, 2008)

Sec. 7-3-20. Responsibility for refuse on premises.

It shall be the duty of every person, whether owner, lessee or renter of any vacant lot, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment, at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. (Ord. 347 §1, 2008)

Sec. 7-3-30. Abatement.

(a) Whenever the Board of Trustees shall direct, the City Manager or City Clerk shall immediately thereafter notify any owner of property by certified, return-receipt-requested mail, his or her agent or any person having charge of such property, in writing, that an order has been made by the Board of Trustees requiring the removal of any accumulated refuse from such property or premises within thirty (30) days after service of notice. If such property owner, agent or person having charge of such property does not remove such refuse in accordance with the requirement of such order, the Board of Trustees may order that such refuse be removed by the City Manager or other Trustee and assess the cost thereof against the property or premises.

(b) The amount so assessed shall be a lien upon such property until the same is paid; provided, however, that in case of failure to pay such assessment within ten (10) days after the same is made, the City Clerk shall cause a notice of such assessment to be given to the owner of such property, by publishing in a newspaper in the City for two (2) consecutive weeks, a notice to such property owner of the amount assessed against his or her property, and shall designate a time and place when the Board of Trustees will hear any objections as to the adjustment and correctness of the amount so assessed. If such assessment is not paid within ten (10) days after the time fixed for hearing such objections, and unless the same are sustained, the City Clerk shall certify such assessment to the County Treasurer, to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by state law. (Prior code 12-1-3)

Sec. 7-3-40. Accumulation and deposit of garbage prohibited.

No person shall deposit or place any garbage, rubbish, waste material or ashes in such a manner that the same is or tends to become a nuisance or in such a manner that 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, waste material, rubbish or ashes to be accumulated thereon in such a manner that the same is or tends to become a nuisance, or in such a manner that endangers or tends to endanger the public health. No person shall in any manner throw, place, scatter, deposit or bury any garbage, rubbish, waste materials or ashes in or upon any public street, alley or other public place or upon his or her own premises or the premises of another. (Prior code 12-1-4)

Sec. 7-3-50. Trash not to be thrown in street, alley, vacant lot, etc.

It is unlawful to deposit or cause to be deposited or cast in any street, alley and public place or upon any private property without the consent of the owner or occupant thereof, any garbage, rubbish or trash. (Prior code 12-1-5, Ord. 346 §3, 2009).

Sec. 7-3-60. Responsibility of owners, lessees.

It shall be the duty of every person, whether owner, lessee or renter of any vacant lot, building or premises, including any place of business, hotel, restaurant, dwelling house, apartment, tenement or any other establishment at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of trash or materials contrary to the provisions of these policies. (Prior code 12-1-6; Ord. 346 §4, 2009)

Sec. 7-3-70. Building materials at construction sites.

All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose, discarded or unused material of any kind resulting from the wrecking, constructing or reconstructing of any room, basement, wall, fence, sidewalk or building shall be promptly removed or discarded in such a manner as not to be scattered about by the wind or otherwise, and as soon as possible be removed by the person responsible for such work. Such person shall be held liable for any scattering of such refuse upon adjacent properties. (Prior code 12-1-7; Ord. 347 §1, 2008; Ord. 346 §5, 2009)

Sec. 7-3-80. Removal of refuse from business.

Discarded refuse, including automobile parts, stoves, furniture, wool, hides and junkyard refuse shall be removed periodically from such respective establishments by the proprietor so

that the premises are clean and orderly at all times. Silt and similar deposits from automobile wash racks shall be removed to the City dump by the establishment creating such deposits. Any accumulation of refuse that is highly explosive or inflammable, which might endanger life or property, shall be removed to such places as approved by the Chief of Police or the Fire Chief. The establishments responsible shall handle such removal therefor. (Prior code 12-1-8; Ord. 347 §1, 2008)

Sec. 7-3-90. Accumulation and use of manure.

Other than a light spread of manure which may be applied on lawns or gardens for fertilizing purposes, manure shall not be kept on any property for any purpose, or kept in any place for later use, but shall be either plowed under or removed by the owner, occupant or agent. (Prior code 12-1-9)

Sec. 7-3-100. Burning of garbage.

No person shall set on fire or burn any garbage, rubbish or waste material, or any hay, grass clippings or other combustible materials, except waste paper, in any ash pit or other receptacle or upon the ground. Any such act is a nuisance because of smoke and odor. (Prior code 12-1-10)

Sec. 7-3-110. Uncollected garbage deemed nuisance, failure to comply.

Fermenting, putrefying, odiferous or unsightly garbage, rubbish or trash dumped in the open or uncollected at the proper time, due to failure of any owner or occupant of property within the Town limits to comply with the terms of these policies or any rule or regulation under this policy, is deemed a nuisance and a violation of this ordinance. (Ord. 346 §6, 2009)

Sec. 7-3-120. Violations designated.

It is unlawful and a violation of these policies for any person to:

- (1) Permit the accumulation of any garbage, rubbish or trash on premises owned, controlled or occupied by such person.
- (2) Throw or permit to be deposited any garbage, rubbish or trash upon any street, alley or public or private way within the Town boundaries.
- (3) Keep or maintain any garbage in an unsanitary, unhealthy or unsafe condition. (Ord. 346 §7, 2009)

ARTICLE 4

Garbage Collection

Sec. 7-4-10. Provision of collection services.

The City or its agents, contractors or City-licensed operators shall furnish garbage, rubbish, waste matter and ashes collection service as provided in this Article to all persons residing within the City. (Prior code 12-2-2)

Sec. 7-4-20. Contract.

The Board of Trustees may enter into an exclusive contract or agreement with any person for the collection and disposal of ashes, trash and garbage, or any portion thereof, through the City; or it may, at its discretion, make provision for the collection and disposal of ashes, trash and garbage. (Prior code 12-2-3)

Sec. 7-4-30. Collection of garbage and waste matter by outside operators; exception.

(a) The City, by and through its duly authorized agents, employees, contractors or City-licensed operators, shall be the sole agency

for the collection and disposal of garbage and waste matter, and no person except such duly authorized agents, employees, contractors or City-licensed operators shall collect or dispose of any garbage or waste matter. Nothing in this Article shall relieve any contractor of the obligation of cleaning up premises after completion of his or her contract.

(b) Nothing in this Article shall prevent an individual from hauling his or her own waste material, provided that it is properly disposed of in conformity with all City regulations, and that such individual is subject to all other provisions of this Article. (Prior code 12-2-4)

Sec. 7-4-40. Charges for City collection services.

(a) The Board of Trustees shall, by resolution, establish charges for collection service under this Article, prescribe the time and manner of payment of such charges and adopt measures designed to enforce the payment thereof that, in its discretion, are necessary or desirable. Such resolution, when adopted, shall be of the same force and effect as if incorporated in this Section.

(b) The amount of charges for garbage, rubbish, waste material and ashes collection service shall be a lien upon the property served until the same is paid. In case of failure to pay the established charges for garbage, rubbish, waste material and ashes collection service by the owner or person having the occupancy, control or management of any premises, within sixty (60) days after the time prescribed for payment of such charges by the Board of Trustees, the City Clerk shall cause a notice of such charge to be given to the owner of such property by publishing in a newspaper in the City, for two (2) successive weeks, a notice to such property owner of the amount of charges assessed against his or her property and that, if such charges are not paid within ten (10) days thereafter, the City Clerk shall certify such charges as assessed to the

County Treasurer, to be placed by him or her on such tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by state law. (Prior code 12-2-5)

Sec. 7-4-50. Disposition and use of funds.

All funds collected by the City for collection service under this Article shall be credited to a fund to be known as the Trash Fund, the proceeds of which shall be used to defray expenses such as the furnishing and maintaining of necessary equipment and payment of persons employed in the service, agents or contractors of City-licensed operators. (Prior code 12-2-6)

Sec. 7-4-60. Collection of tree trimmings and hedge cuttings.

Any person desiring to place tree trimmings or hedge cuttings for collection shall cause the same to be cut not more than five (5) feet in length and eighteen (18) inches in diameter. He or she shall place the same for collection in the same manner and times provided for the collection of garbage. (Prior code 12-2-7)

Sec. 7-4-70. Collection of dead animals.

Dead animals will be removed at the owner's expense. In no event shall a dead animal remain undisposed of for a period longer than twelve (12) hours. (Prior code 12-2-8; Ord. 347 §1, 2008)

Sec. 7-4-80. Unauthorized molesting or removal of garbage or containers prohibited.

No person shall vandalize, remove, handle or otherwise disturb any garbage or refuse containers or contents for servicing by the collectors; provided, however, that this Section does not apply to the owner, occupant, lessee or tenant of the residence or dwelling so placing the containers and contents. (Prior code 12-2-9)

Sec. 7-4-90. Promulgation of rules and regulations.

The Board of Trustees shall, by resolution, promulgate rules and regulations relating to the manner of preparing and accumulating garbage, rubbish, waste material and ashes for collection; the type and kind of containers to be used for such accumulation; the manner of use of and care for such containers; and such other rules and regulations as, in its discretion, are necessary or desirable in the interest of maintaining efficiency and sanitary conditions in the garbage, rubbish, waste material and ashes collection system and service within the City. Such resolutions, when adopted, shall be of the same force and effect as if incorporated in this Section (Prior code 12-2-10)

Sec. 7-4-100. Enforcement.

The City Manager shall have charge and supervision of the garbage, rubbish, waste material and ashes collection system. He or she is empowered to employ and direct all assistants, laborers, agents, contractors and employees. He or she shall enforce the terms of this Article and the various rules and regulations promulgated hereunder from time to time. The City Manager shall be accountable to the Mayor and Board of Trustees in all matters pertaining to the exercise of his or her powers and duties. (Prior code 12-2-11)

ARTICLE 5

Weeds and Brush

Sec. 7-5-10. Undesirable Plant Management Advisory Commission designated.

The Board of Trustees is appointed to act as the Undesirable Plant Management Advisory Commission for the City and shall have the duties and responsibilities as provided by state statute. (Ord. 347 §1, 2008)

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

Sec. 7-5-20. Declaration of nuisance.

Any weeds or brush found growing in any lot or tract of land in the City is hereby declared to be a nuisance, and it is unlawful to permit any such weeds or brush to grow or remain in any such place. (Ord. 347 §1, 2008)

Sec. 7-5-30. Duty of property owner to cut.

It shall be the duty of each and every person owning, occupying or possessing any lots; tracts or parcels of land within the City to cut to the ground all weeds and brush when said weeds and brush grow to a height of twelve (12) inches or more. (Ord. 347 §1, 2008)

Sec. 7-5-40. Removal from City.

All weeds and brush cut in accordance with Section 7-5-30 hereof shall, immediately upon being cut, be removed from the City or otherwise entirely destroyed by the owner of the lot upon which the weeds and brush have been cut. (Ord. 347 §1, 2008)

ARTICLE 6

Trees

Sec. 7-6-10. Prohibited trees.

(a) It is unlawful and deemed a nuisance to sell or import into the City or plant or cause to be planted within the City limits any female box-elder tree (*Acer negundo*), female cottonwood trees (*Populus spices*), Siberian elm (*Ulmus pumila*) or other undesirable plants as designated by ordinance upon any property within the City, and the planting or setting out of these certain plants is declared to be a menace to public health, safety and welfare and a public nuisance.

(b) The owner of any property within the City, upon which any tree listed in Subsection (a) above has been planted after the effective

date of the ordinance codified herein, shall cut and remove such tree from his or her property after being given fifteen (15) days' written notice to do so by the City.

(c) In case of the failure of any owner of such property to cut and remove such tree as required in Subsection (b) above, the City shall cut and remove such tree at the property owner's expense. (Ord. 347 §1, 2008)

Sec. 7-6-20. Trees and limbs in public right-of-way.

It shall be the duty of the owner of any property adjacent to the public right-of-way to remove any trees or limbs located in or above the public right-of-way when such trees or limbs constitute a danger to public safety. Such trees and limbs shall constitute a nuisance. For the purposes of this Section, a *danger to public safety* shall include all trees and limbs which hinder visibility or which may otherwise affect public health, safety and welfare, and trees and limbs which present a structural defect which may cause the tree or limb to fall on a person or on property of value. (Ord. 347 §1, 2008)

Sec. 7-6-30. Control of trees and shrubs.

(a) Trees, shrubs and other vegetation which are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential threat or hazard to people or property within the City are hereby declared a nuisance.

(b) The City shall give written notice to the owner or occupant of any property abutting City rights-of-way or other public property of any condition deemed unsafe caused by trees and other vegetation overhanging or projecting from such abutting property and onto or over such right-of-way or other public property with such unsafe condition. The City shall correct any such unsafe condition immediately upon the expiration of the notice period specified in the notice of abatement.

(c) It is unlawful and deemed a nuisance for any person to cut, trim, spray, remove, treat or plant any tree, vine, shrub, hedge or other woody plant upon access-controlled arterials or other public parks and greenbelts within the City, unless authorized or directed by the City.

(d) It is unlawful and deemed a nuisance for any person to injure, damage or destroy any tree, shrub, vine, hedge or other vegetation in or upon public rights-of-way or other public property within the City, except any person who notifies the City of such injury, damage or destruction and makes arrangements to repair or replace such vegetation or pay for the cost of such repair or replacement. (Ord. 347 §1, 2008)

ARTICLE 7

Animals and Fowl

*Division 1
General Provisions*

Sec. 7-7-10. Confinement of animals running at large; costs.

If any animal is found running at large contrary to the provisions of this Article, it is hereby made the duty of the Chief of Police to take up and confine the same in a secure place or other place provided for that purpose. Such animal taken up and confined shall not be released until the owner or person entitled to the possession thereof pays to the officer having possession of such animal all costs associated with keeping such animal. Such amount shall be turned in to the City Treasurer. (Prior code 11-1-1; Ord. 347 §1, 2008)

Sec. 7-7-20. Grazing upon public thoroughfares.

It is unlawful for any person to picket, lead or hold any horse, cattle or other livestock on or along any street, sidewalk or alley in the City in

such manner that any such animal may graze upon the grass, herbage or trees growing upon or along any of said streets, sidewalks or alleys; or for any person to picket, lead or hold any horse, cattle or other livestock in such a manner as to obstruct or impede the full use of said streets, sidewalks or alleys. (Prior code 11-1-3; Ord. 347 §1, 2008)

Sec. 7-7-30. Hitching animals to public and private property.

It is unlawful for any person to hitch a horse or any other animal to any ornamental fence or railing, tree or bush, whether private or public, without the permission of the owner thereof. It shall be unlawful for any person to hitch any such animal to any lamppost or fire hydrant of the City. (Prior code 11-1-4; Ord. 347 §1, 2008)

Sec. 7-7-40. Maltreatment.

It is unlawful for any person to beat, injure or maltreat any animal. (Prior code 11-1-5; Ord. 347 §1, 2008)

Sec. 7-7-50. Hogs, sheep and goats prohibited.

It is unlawful for any person to keep or harbor within the corporate limits of the City any hogs, pigs, swine, sheep or goats. (Prior code 11-1-6; Ord. 347 §1, 2008)

Sec. 7-7-60. Cattle and horses prohibited.

It is unlawful for any person to herd or harbor any cattle, horses or other livestock within the corporate limits of the City. (Prior code 11-1-7; Ord. 347 §1, 2008)

Sec. 7-7-70. Fowl and rabbits restrained.

It is unlawful for any person who owns, harbors or keeps within the City limits any chickens, ducks, geese, turkeys or other domestic

fowl, or any hare or rabbits, to fail to keep the same securely enclosed in a pen or building, or to permit the same to run at large or to go upon the premises of another. (Prior code 11-1-8; Ord. 347 §1, 2008)

Sec. 7-7-80. Premises kept clean.

Any person who owns or controls any lot, barn, stable, shed, building or other place where domestic fowl or animals are kept shall keep said building and premises in a clean and sanitary condition and shall remove all manure from the premises at least once each week. (Prior code 11-1-9)

Division 2

Dogs

Sec. 7-7-210. Rabies vaccination required.

The owner, possessor or keeper of every dog within the City shall have such dog inoculated against rabies each year and on a calendar basis thereafter. Dogs purchased, obtained or otherwise acquired or brought into the City shall be inoculated within thirty (30) days after such acquisition or being brought into the City. Puppies shall be inoculated between ninety (90) days and one hundred ten (110) days after birth, and each year on a calendar basis thereafter. A license and renewal of the same shall be processed at the time of each scheduled inoculation. (Prior code 11-2-4; Ord. 304 §II, 1998)

Sec. 7-7-220. Inoculation by licensed veterinarian.

The inoculation required by the preceding Section shall be made by any veterinarian licensed to practice veterinary medicine in the State. (Prior code 11-2-5)

Sec. 7-7-230. Filing of complaint.

If a dog is impounded, it shall be the duty of the dogcatcher or any police officer to immediately institute proceedings in the Municipal Court on behalf of the City against the owner, possessor or keeper of such dog, if known, charging the owner, possessor or keeper with a violation of the appropriate section of this Article. Nothing herein contained shall be construed as preventing the dogcatcher, any police officer or any citizen from instituting a proceeding in the Municipal Court for violation of this Article where there is no impoundment. (Prior code 11-2-15)

Sec. 7-7-240. Notice of impoundment.

As soon as practicable after the date of impoundment, the dogcatcher shall notify the owner, possessor or keeper of such dog if the address of such person is known. (Prior code 11-2-16; Ord. 206 §2, 1976; Ord. 347 §1, 2008)

Sec. 7-7-250. Disposal of abandoned dog.

If a complaint has not been filed in Municipal Court because the owner, possessor or keeper of an impounded dog is not known or cannot be located, and such dog is not claimed within three (3) days from the date of impoundment, not counting the first day of impoundment, the dog may be disposed of in any humane manner prescribed by the dogcatcher or by persons authorized to do so by the City Manager. (Prior code 11-2-18; Ord. 206 §2, 1976)

Sec. 7-7-260. Interference with dogcatcher or police officer.

It shall be unlawful for any person to interfere with, molest, hinder or obstruct the dogcatcher or any police officer in the discharge of his or her official duties under this Article. (Prior code 11-2-20)

Sec. 7-7-270. Instigating or encouraging dogfights prohibited.

No person shall cause, instigate or encourage any dogfight within the City. (Prior code 11-2-21)

Sec. 7-7-280. Confinement or muzzling of dogs during rabies danger.

Whenever the Mayor finds that any danger exists from hydrophobia or other danger exists from dogs running at large within the City, he or she shall issue a proclamation requiring every owner, possessor or keeper of any dog within the City to confine or securely muzzle the same for such time as he or she may designate. During such time, it shall be unlawful for any dog to be within the City unless so securely muzzled with a good and substantial wire or leather muzzle securely fastened and put on so as to prevent such dog from biting. It shall be the duty of the dogcatcher and all police officers of the City to take up and impound any dog that may be found during the time so designated by the Mayor as aforesaid unless muzzled or confined as herein provided. (Prior code 11-2-22)

Sec. 7-7-290. Female dogs in heat.

Any unspayed female dog, while in heat, shall be securely confined during such period in the owner's yard, pen or other enclosure. Such yard, pen or other enclosure shall be so constructed or situated as to prevent other dogs from gaining access thereto. (Prior code 11-2-23; Ord. 347 §1, 2008)

Sec. 7-7-300. Running at large prohibited.

It shall be unlawful for any owner, possessor or keeper of any dog in the City to permit the same to run at large within the City. A dog shall be deemed to be running at large when off or away from the premises of the owner, possessor

or keeper thereof and not under the immediate control of such owner, possessor or keeper or the agent, servant or member of the immediate family of the owner, possessor or keeper. The term *immediate control* means that the dog is either on a leash, cord or chain not more than ten (10) feet in length or under the immediate voice control of the owner. *Voice control* means that the dog is within sight of the person having control, is less than one hundred (100) feet distant from the person having control, and is at all times under actual voice control (as opposed to presumed or constructive control), as needed, regardless of the circumstances. (Prior code 11-2-24; Ord. 293 §1, 1993)

Sec. 7-7-310. Dogs prohibited in ball park.

(a) It shall be unlawful for any dog to enter the playing surface of the ball field, whether said dog is leashed or not leashed.

(b) Any owner of or person responsible for any dog violating this Section shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(c) Owners of or persons responsible for dogs are directed to take their dogs to the area west of the railroad right-of-way for the purpose of walking their dogs. (Ord. 314 §§1—3, 2000; Ord. 347 §1, 2008)

Sec. 7-7-320. Vicious dogs.

No person shall own, keep, possess or harbor a vicious dog within the City. For the purposes of this Article, a *vicious dog* is hereby defined and declared to be a dog that, unprovoked, bites or attacks human beings or other animals, either on public or private property, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks or any public ground or place. It shall be the duty of the dogcatcher and all police

officers to take up and impound any dog, which is a vicious dog. In the event a vicious dog cannot be taken up and caught by the dogcatcher or any police officer without such dogcatcher or police officer exposing himself or herself to danger of personal injury from such dog, it shall be lawful for the dogcatcher or any police officer to forthwith destroy such dog without notice to the owner, keeper or possessor thereof. (Prior code 11-2-25)

Sec. 7-7-330. Confinement of biting dogs.

(a) The owner, possessor or keeper of any dog which has bitten or which is suspected to have bitten any person or which is suspected of having rabies shall immediately notify the dogcatcher or any police officer of such fact.

(b) Any dog which has bitten or which is suspected to have bitten any person or which is believed to have rabies or to have been exposed to rabies shall be confined, upon order of the dogcatcher or any police officer, for a period of ten (10) days for observation. Such dog shall either be confined at the residence of the owner, possessor or keeper thereof, if such confinement can be accomplished without exposing such dog to the public, or, at the option of the dogcatcher or any police officer, such dog shall be confined at the City Pound or at a private veterinary hospital at the expense of the owner, possessor or keeper of the dog. It shall be unlawful for any owner, possessor or keeper of such dog to permit such dog during confinement to come into contact with the public. (Prior code 11-2-26)

Sec. 7-7-340. Notice not required for prosecution.

For the purpose of prosecution for violations of this Article, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner, possessor or

keeper of the dog in question that such dog was violating any of the provisions of this Article at the time and place charged, it being the purpose and intent of this Article to impose strict liability upon the owner, possessor or keeper of any dog for the actions, conduct and condition of such dog. (Prior code 11-2-27)

CHAPTER 8

Vehicles and Traffic

Article 1 Model Traffic Code

- Sec. 8-1-10 Adoption
- Sec. 8-1-20 Copy on file
- Sec. 8-1-30 Amendments
- Sec. 8-1-40 Application
- Sec. 8-1-50 Interpretation
- Sec. 8-1-60 Regulation of traffic
- Sec. 8-1-70 Willow Creek Flume regulations
- Sec. 8-1-80 Violation; penalty

Article 2 Snowmobile Regulations

- Sec. 8-2-10 Applicability
- Sec. 8-2-20 Definitions
- Sec. 8-2-30 Snowmobile use restrictions

ARTICLE 1**Model Traffic Code****Sec. 8-1-10. Adoption.**

Pursuant to Title 31, Article 16, Parts 1 and 2, and Title 30, Article 4, C.R.S., there is hereby adopted by reference Articles I and II, inclusive, of the 2003 edition of the *Model Traffic Code for Colorado Municipalities*, promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, EP 700, Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the City. The purpose of this Article and the code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the State and the Nation. (Ord. 303 §1, 1998; Ord. 347 §1, 2008)

Sec. 8-1-20. Copy on file.

One (1) copy of the Model Traffic Code adopted herein is now filed in the office of the City Clerk and may be inspected during regular business hours. The 2003 edition of the Model Traffic Code is adopted as if set out at length. (Ord. 288 Part Four, 1992; Ord. 347 §1, 2008)

Sec. 8-1-30. Amendments.

The Model Traffic Code is subject to the following additions, modifications and amendments: none. (Ord. 347 §1, 2008)

Sec. 8-1-40. Application.

This Article shall apply to every street, alley, sidewalk area, driveway, park and every other public way, place or parking area, either within or outside the corporate limits of the City, the use of which the City has jurisdiction and

authority to regulate. The provisions of sections 1401, 1402, 1413 and Part 16 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving, eluding a police officer and accidents and accident reports shall apply not only to public places and ways but also throughout the City. (Ord. 347 §1, 2008)

Sec. 8-1-50. Interpretation.

This Article shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of this Article and the adopted code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any article or section thereof. (Ord. 347 §1, 2008)

Sec. 8-1-60. Regulation of traffic.

In accordance with the provisions of the Model Traffic Code as adopted in this Article, and in order to regulate the flow of traffic at certain intersections within the City, there are hereby established the following control devices at the following locations, which shall be officially designated by the use of proper signs of types uniform throughout the State:

(1) At the intersection of Third Street and Loma Avenue, traffic proceeding east on Third Street shall be compelled to stop and thereafter yield to oncoming traffic. Such stop sign shall be placed on the south shoulder of Third Street facing west, to control such eastbound traffic.

(2) At the intersection of Third Street and Rio Grande Avenue, traffic proceeding north on Rio Grande Avenue shall be compelled to stop and thereafter yield to oncoming traffic. Such stop sign shall be placed on the east side of Rio Grande Avenue facing south to control such northbound traffic.

(3) At the intersection of Third Street and Rio Grande Avenue, traffic proceeding west on Third Street shall be compelled to yield to oncoming traffic. Such yield sign shall be placed on the north shoulder of Third Street facing east to control such westbound traffic.

(4) At the intersection of Rio Grande Avenue and Fifth Street, traffic proceeding south on Rio Grande Avenue shall be compelled to stop and thereafter yield to oncoming traffic. Such stop sign shall be placed on the west side of Rio Grande Avenue facing north to control such southbound traffic. (Ord. 210 §2, 1977; Ord. 347 §1, 2008)

Sec. 8-1-70. Willow Creek Flume regulations.

It is unlawful for anyone to ride, drive or navigate any motorized vehicle using an internal combustion engine, while the engine is running, on any of the footbridges across the Willow Creek Flume within the City limits. (Ord. 318 §1, 2001)

Sec. 8-1-80. Violation; penalty.

(a) It is unlawful for any person to violate any of the provisions of this Article or the Model Traffic Code as adopted herein.

(b) Every person convicted of a violation of this Article or the Model Traffic Code shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 347 §1, 2008)

ARTICLE 2

Snowmobile Regulations

Sec. 8-2-10. Applicability.

State laws regulating snowmobiles shall be applicable upon all streets within the City, except as this Article sets forth additional restrictions and regulations on speed, use, travel and markings. (Ord. 185 §15-2-1, 1972; Ord. 347 §1, 2008)

Sec. 8-2-20. Definitions.

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

Operate means to ride in or on and control the operation of a snowmobile.

Operator means every person who operates or is in actual physical control of a snowmobile.

Owner means a person, other than a lienholder, having the property in or title to a snowmobile and entitled to the use or possession thereof.

Roadway means the portion of a highway improved, designed or ordinarily used for vehicular travel.

Snowmobile means a self-propelled vehicle primarily designed for travel on snow or ice, and supported in part by skis, belts or cleats.

Street, road, freeway or highway means the entire right-of-way between boundary lines of any of such public ways when any part thereof is open to the use of the public as a matter of right for the purpose of motor vehicle travel. (Ord. 185 §15-2-21, 1972; Ord. 347 §1, 2008)

Sec. 8-2-30. Snowmobile use restrictions.

(a) Location.

(1) The use of snowmobiles within the City shall not be allowed, except as follows:

a. Along Fifth Street, Third Street, Wall Street, Loma Avenue and Capitol Avenue as a means of entering and exiting the City limits. Travel on the above streets for any other purpose shall be illegal. All routes from residences to the above exit streets shall be the most direct route.

b. During emergencies as declared by the Mayor or, in his or her absence, the Chief of Police or Fire Chief, snowmobiles may be used for the purposes designated by the Mayor, Chief of Police or Fire Chief.

(2) In addition to the above, a snowmobile may be operated on streets and highways under the jurisdiction of the City only when such operation is authorized by special ordinance or addition to this Code and appropriate notice is given thereof, and then only in the manner and on such streets prescribed by such ordinance consistent with the provisions of state law.

(b) Speed. The maximum speed of snowmobiles within the City limits shall be fifteen (15) miles per hour.

(c) Right-of-way. Snowmobiles shall yield to all other street vehicles, all of which shall have the right-of-way.

(d) Masts. All snowmobiles operating within the City limits shall have a five-foot mast attached to the snowmobile in a vertical position, with thirty (30) square inches of fluorescent flagging at the highest point of such mast.

(e) Hours. Snowmobiles shall not be operated within the City except during daylight hours, without first obtaining permission from the Chief of Police.

(f) Rallies. No rallies shall be held within the City without first obtaining written permission from the Chief of Police.

(g) Penalty. Violations of any provision of this Section shall be misdemeanors and punishable by a fine of not more than one hundred dollars (\$100.00). (Ord. 185 §15-2-33, 1972; Ord. 347 §1, 2008)

CHAPTER 10

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ARTICLE 1**General Provisions****Sec. 10-1-10. Definitions.**

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

Government includes any branch, subdivision, institution or agency of the government of this City.

Governmental function includes any activity, which a public servant is legally authorized to undertake on behalf of a government.

Public servant means any officer or employee of the government, whether elected or appointed, and any person participating as an advisor or consultant, engaged in the service of process or otherwise performing a governmental function, but the term does not include witnesses. (Ord. 347 §1, 2008)

Sec. 10-1-20. Criminal attempt.

(a) A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he or she engages in conduct constituting a substantial step toward the commission of the offense. A *substantial step* is any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.

(b) A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish his or her complicity under Section 18-1-603, C.R.S., were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

(c) It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of this criminal intent.

(d) Criminal attempt to commit a misdemeanor is a misdemeanor.

(e) Criminal attempt to commit a petty offense is a crime of the same class as the offense itself. (Ord. 347 §1, 2008)

Sec. 10-1-30. Conspiracy.

(a) A person commits conspiracy to commit a crime if, with the intent to promote or facilitate its commission, he or she agrees with another person or persons that they, or one (1) or more of them, will engage in conduct which constitutes a crime or an attempt to commit a crime, or he or she agrees to aid the other person or persons in the planning or commission of a crime or of an attempt to commit such crime.

(b) No person may be convicted of conspiracy to commit a crime, unless an overt act in pursuance of that conspiracy is proved to have been done by him or her or by a person with whom he or she conspired.

(c) If a person knows that one with whom he or she conspires to commit a crime has conspired with another person to commit the same crime, he or she is guilty of conspiring to commit a crime with the other person, whether or not he or she knows the other person's identity.

(d) If a person conspires to commit a number of crimes, he or she is guilty of only one (1) conspiracy so long as such multiple crimes are part of a single criminal episode.

(e) Conspiracy to commit a misdemeanor is a misdemeanor.

(f) Conspiracy to commit a petty offense is a crime of the same class as the offense itself. (Prior code 10-5-12; Ord. 347 §1, 2008)

Sec. 10-1-40. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense. (Ord. 347 §1, 2008)

Sec. 10-1-50. Accessory to crime.

(a) A person is an accessory to crime if, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of a crime, he or she renders assistance to such person.

(b) *Render assistance* means to:

(1) Harbor or conceal the other;

(2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;

(3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;

(4) By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution or punishment of such person; or

(5) Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person.

(c) Being an accessory to crime is a Class 1 petty offense if the offender knows that the person being assisted has committed, has been convicted of or is charged by pending information, indictment or complaint with a crime, or is suspected of or wanted for a crime, and if that crime is designated by this Code as a misdemeanor of any class. (Ord. 347 §1, 2008)

Sec. 10-1-60. Aiding and abetting.

Every person who commits, attempts to commit, conspires to commit, aids or abets in the commission of any act declared herein to be in violation of the ordinances of the City, whether individually or in connection with one (1) or more persons, as a principal, agent or accessory, shall be guilty of such offense, and every person who fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any ordinance of the City is likewise guilty of such offense. (Prior code 10-8-14)

ARTICLE 2

Government and Public Officers

Sec. 10-2-10. Obstructing government operations.

(a) It is unlawful to obstruct government operations.

(b) A person commits obstructing government operations if he or she intentionally obstructs, impairs or hinders the performance of a governmental function by a public official, employee or servant, by using or threatening to use violence, force or physical interference or obstacle.

(c) It is an affirmative defense that:

(1) The obstruction, impairment or hindrance was of unlawful action by a public servant;

(2) The obstruction, impairment or hindrance was of the making of an arrest; or

(3) The obstruction, impairment or hindrance was by lawful activities in connection with a labor dispute with the government. (Ord. 347 §1, 2008)

Sec. 10-2-20. Impersonating a peace officer.

(a) It is unlawful for any person other than an official police officer of the City to wear the uniform, apparel or any other insignia of office like, similar to or a colorable imitation of that adopted and worn by the police officer.

(b) It is unlawful for any person to counterfeit, imitate or cause to be counterfeited, imitated, or colorably imitated, the uniform, apparel, or insignia of office used by the law enforcement officer of the City.

(c) A person who falsely pretends to be a peace officer and performs an act in that pretended capacity commits impersonating a peace officer. (Prior code 10-8-9; Ord. 347 §1, 2008)

Sec. 10-2-30. Impersonating a City officer or employee.

It is unlawful for any person to willfully, unlawfully or fraudulently represent himself or

herself to be a City officer or an employee of the City and purporting to perform the duties of any such officer or employee when he or she is not an authorized officer or employee of the City. (Prior code 10-8-10; Ord. 347 §1, 2008)

Sec. 10-2-40. Obstructing a peace officer or firefighter.

(a) No person shall, in any way, interfere with or hinder any police officer that is discharging or apparently discharging the duties of the position.

(b) It is unlawful to obstruct a peace officer or firefighter.

(c) A person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force or physical interference or obstacle, such person knowingly obstructs, impairs or hinders the enforcement of the law or the preservation of the peace by a peace officer, acting under color of his or her official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter, acting under color of his or her official authority.

(d) It is no defense to a prosecution under this Section that the peace officer or firefighter was acting in an illegal manner, if the peace officer or firefighter was acting under color of his or her official authority as defined in Sub-section 10-2-50(c) below.

(e) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest. (Ord. 347 §1, 2008)

Sec. 10-2-50. Resisting arrest.

(a) It is unlawful for any person to resist arrest.

(b) A person commits resisting arrest if he or she knowingly prevents or attempts to prevent a peace officer, acting under color of his or her official authority, from affecting an arrest of the actor or another by:

(1) Using or threatening to use physical force or violence against the peace officer or another; or

(2) Using any other means, which creates a substantial risk of causing physical injury to the peace officer or another.

(c) It is no defense to a prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if the peace officer was acting under color of his or her official authority, and in attempting to make the arrest, the peace officer was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A peace officer acts *under color of his or her official authority* when, in the regular course of assigned duties, the peace officer is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by the peace officer.

(d) The term *peace officer* as used in this Section means a peace officer in uniform or, if out of uniform, one who has identified himself or herself by exhibiting his or her credentials as such peace officer to the person whose arrest is attempted. (Prior code 10-8-7; Ord. 347 §1, 2008)

Sec. 10-2-60. False reporting to authorities.

It is unlawful for a person to falsely report to authorities. A person commits false reporting to authorities if he or she:

(1) Knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or property;

(2) Makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he or she knows that it did not occur;

(3) Makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when he or she knows that he or she has no such information or knows that the information is false;

(4) Knowingly gives false information to any law enforcement officer with the purpose of implicating another; or

(5) Gives a false name or address to a law enforcement officer with the intent of concealing or hiding one's own real name, address and/or age. (Ord. 347 §1, 2008)

Sec. 10-2-70. Duty of citizens to aid police officers.

It is the duty of all persons when called upon by any police officer or other member of the Police Department to promptly aid and assist such officer or member in the discharge of his or her duties. (Prior code 10-8-8; Ord. 347 §1, 2008)

ARTICLE 3

Streets and Public Places

Sec. 10-3-10. Unlawful conduct on public property.

(a) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself or herself in or on them in violation of any order, rule or regulation concerning any matter prescribed in this Section, limiting or prohibiting the use, activities or conduct in such public building or on such public property, issued by any officer or agency having the power of control, management or supervision of the building or property. In addition to any authority granted by any other law, each such officer or agency may adopt such orders, rules or regulations as are reasonably necessary for the administration, protection and maintenance of such public buildings and property, specifically, orders, rules and regulations upon the following matters:

- (1) Preservation of property, vegetation, wildlife, signs, markers, statues, buildings, grounds and other structures, and any object of scientific, historical or scenic interest;
- (2) Restriction or limitation of the use of such public buildings or property as to time, manner or permitted activities;
- (3) Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance;
- (4) Camping and picnicking, public meetings and assemblages and other individual or group usages, including the place, time and manner in which such activities may be permitted;

(5) Use of all vehicles as to place, time and manner of use; and

(6) Control and limitation of fires and designation of places where fires are permitted.

(b) No conviction may be obtained under this Section unless notice of such limitation or prohibition is prominently posted at all public entrances to such building or property or unless such notice is actually first given the person by the office or agency, including any agent thereof or by any law enforcement officer having jurisdiction or authority to enforce this Section.

(c) Any person who violates this Section is guilty of unlawful conduct on public property. (Ord. 347 §1, 2008)

Sec. 10-3-20. Trespass or interference in public buildings.

(a) No person shall so conduct himself or herself at or in any public building owned, operated or controlled by the City as to willfully deny to any public official, public employee or invitee on such premises the lawful rights of such official, employee or invitee to enter, to use the facilities of or to leave any such public building.

(b) No person shall, at or in any public building, willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion or intimidation or by force and violence or threat thereof.

(c) No person shall willfully refuse or fail to leave any such public building upon being requested to do so by the City officer charged with maintaining order in such public building, if the person has committed, is committing, threatens to commit or incites others to commit

any act which did, or would if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in the public building.

(d) No person shall, at any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building, willfully impede, disrupt or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting the meeting or session or by any act designed to intimidate, coerce or hinder any member of such body or official engaged in the performance of duties at such meeting or session.

(e) No person shall, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official at or in any public building, willfully impede, disrupt or hinder the normal proceedings of such body or official.

(f) The term *public building*, as used in this Section, includes any premises being temporarily used by a public officer or employee in the discharge of his or her official duties.

(g) Any person who violates any of the provisions of this Section commits an unlawful act. (Ord. 347 §1, 2008)

Sec. 10-3-30. Interfering with use of streets or sidewalks.

It is unlawful for any person, alone or in a group or assemblage of persons, whose standing, remaining or congregating on any public highway, street, alley or sidewalk in the City obstructs, interferes with or prevents the free, unobstructed and reasonable use of that public highway, street, alley or sidewalk by any other person, to fail or refuse to yield to the reasonable use or passage of any other person on that public

highway, street, alley or sidewalk, or to fail or refuse to move on, disperse or cease such obstruction or interference immediately upon being so ordered by any police officer of the City or other authorized peace officer. (Prior code 10-5-14, 10-8-12; Ord. 347 §1, 2008)

Sec. 10-3-40. Damage or removal of street signs.

It is unlawful for any person without proper authorization to remove, deface, damage or destroy any street sign or sign erected or placed in or adjacent to any street indicating the name of such street. (Prior code 10-3-4; Ord. 347 §1, 2008)

Sec. 10-3-50. Lug wheels prohibited.

It is unlawful for any vehicle injurious to pavement to be permitted upon public thoroughfares unless the operator of such vehicle first planks and protects such streets from damage. (Prior code 10-3-9; Ord. 347 §1, 2008)

Sec. 10-3-60. Advertisements and circulars.

It is unlawful for any person to throw any posters, dodgers, circulars, bills, letters, envelopes, samples or devices upon any of the streets, alleys, parks or public grounds of the City. (Prior code 10-3-10; Ord. 347 §1, 2008)

ARTICLE 4

Public, Private and Personal Property

Sec. 10-4-10. Criminal mischief.

It is unlawful for any person to knowingly damage the real or personal property of one (1) or more other persons in the course of a single criminal episode where the aggregate damage to the real or personal property is less than five hundred dollars (\$500.00). (Ord. 347 §1, 2008)

Sec. 10-4-20. Damaging or destroying public property.

It is unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner damage or destroy real property, improvements thereto or moveable or personal property belonging to the City. (Prior code 10-3-1; Ord. 347 §1, 2008)

Sec. 10-4-30. Damaging or destroying private property.

It is unlawful for any person to either willfully, maliciously or wantonly damage or destroy real property, improvements thereto, or moveable or personal property, belonging to any person. (Prior code 10-3-2; Ord. 347 §1, 2008)

Sec. 10-4-40. Destroying posters.

It is unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner tear down, deface or cover up any posted advertisement or bill of any person when the same is posted or put in harmony with the provisions of this Code. Prior code 10-3-5; Ord. 347 §1, 2008)

Sec. 10-4-50. Trespassing.

(a) It is unlawful for any person to knowingly occupy, use or remain on or in any privately owned property, real or personal, without the permission of the owner or persons entitled to the possession thereof.

(b) It is unlawful for any person to take down any fence, let down any bars or open any gate in or on the property of another without the consent of the owner, occupant or person in charge thereof. (Prior code 10-3-3; Ord. 347 §1, 2008)

Sec. 10-4-60. Littering.

(a) It is unlawful to throw or deposit in any street, alley, sidewalk or public grounds in the City any paper, old clothes, cloth of any kind, boots, shoes, hats, leather, hair, grass, junk cars, straw, hay, trash or any other thing, except in public receptacles and authorized private receptacles.

(b) It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within the City or upon private property. (Prior code 10-3-7; Ord. 347 §1, 2008)

Sec. 10-4-70. Theft.

It is unlawful for a person to commit theft. A person commits theft when he or she knowingly obtains or exercises control over anything of another without authorization or by threat or deception when the value of the thing is less than five hundred dollars (\$500.00), and:

(1) Intends to deprive the other person permanently of the use or benefit of the thing of value;

(2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;

(3) Uses, conceals or abandons the thing of value, intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or

(4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person. (Ord. 347 §1, 2008)

Sec. 10-4-80. Theft of rental property.

It is unlawful for a person to commit theft of rental property. A person commits theft of rental property if he or she:

(1) Obtains the temporary use of personal property of another, which is available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the personal property;

(2) Having lawfully obtained possession for temporary use of the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return the property to the owner thereof or his or her representative or to the person from whom he or she has received it within seventy-two (72) hours after the time at which he or she agreed to return it; and

(3) The value of the property involved is less than five hundred dollars (\$500.00). (Ord. 347 §1, 2008)

Sec. 10-4-90. Theft by receiving.

It is unlawful to commit theft by receiving. A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on or disposes of anything of value of another, knowing or believing that the thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value of such thing is less than five hundred dollars (\$500.00). (Ord. 347 §1, 2008)

Sec. 10-4-100. Concealment of goods.

If any person willfully conceals unpurchased goods, wares or merchandise valued at less than five hundred dollars (\$500.00) owned or held by

and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of the store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Ord. 347 §1, 2008)

Sec. 10-4-110. Tampering and unauthorized connection.

(a) Any person who connects any pipe, tube, stopcock, wire, cord, socket, motor or other instrument or contrivance with any main, service pipe or other medium conducting or supplying gas, water or electricity to any building without the knowledge and consent of the person supplying such gas, water or electricity commits tampering and unauthorized connection, which is unlawful.

(b) Any person who in any manner alters, obstructs or interferes with any meter pit, meter or metering device provided for measuring or registering the quantity of gas, water or electricity passing through said meter without the knowledge and consent of the person owning said meter commits tampering and unauthorized connection, which is unlawful.

(c) A person who tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another, or if he or she knowingly makes unauthorized connection with property of a utility, commits tampering and unauthorized connection, which is unlawful.

(d) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards. (Ord. 347 §1, 2008)

ARTICLE 5

Public Peace and Order

Sec. 10-5-10. Disorderly conduct.

A person commits disorderly conduct if he or she intentionally, knowingly or recklessly:

(1) Makes a coarse and obviously offensive utterance, gesture or display in a public place and the utterance, gesture or display tends to incite an immediate breach of the peace;

(2) Makes unreasonable noise in a public place or near a private residence that he or she has no right to occupy;

(3) Fights with another in a public place except in an amateur or professional contest of athletic skill;

(4) Not being a peace officer, discharges a deadly weapon in a public place except when engaged in lawful target practice or hunting; or

(5) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm. (Prior code 10-5-8; Ord. 347 §1, 2008)

Sec. 10-5-20. Disrupting lawful assembly.

A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, he or she significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means. (Prior code 10-5-13; Ord. 347 §1, 2008)

Sec. 10-5-30. Harassment.

(a) A person commits harassment if, with intent to harass, annoy or alarm another person, he or she:

(1) Strikes, shoves, kicks or otherwise touches a person or subjects him or her to physical contact;

(2) In a public place directs obscene language or makes an obscene gesture to or at another person;

(3) Follows a person in or about a public place;

(4) Initiates communication with a person, anonymously or otherwise, by telephone, computer, computer network or computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone, computer, computer network or computer system which is obscene;

(5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;

(6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or

(7) Repeatedly insults, taunts, challenges or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response.

(b) As used in this Section, unless the context otherwise requires, *obscene* means a patently offensive description of ultimate sexual

acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(c) Any act prohibited by subparagraph (a)(4) above may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail or other electronic communication was either made or received. (Ord. 347 §1, 2008)

Sec. 10-5-40. Ethnic intimidation.

A person commits ethnic intimidation if, with the intent to intimidate or harass another person because of that person's actual or perceived race, color, religion, ancestry, or national origin, he or she:

(1) By words or conduct, knowingly places another person in fear of imminent lawless action directed at that person or that person's property, and such words or conduct are likely to produce bodily injury to that person or damage to that person's property; or

(2) Knowingly causes damage to or destruction of the property of another person. (Prior code 10-5-20; Ord. 347 §1, 2008)

Sec. 10-5-50. Loitering.

(a) The word *loiter* means to be dilatory, to stand idly around, to linger, delay or wander about, or to remain, abide or tarry in a public place.

(b) A person commits a Class 1 petty offense if he or she:

(1) Loiters for the purpose of begging;

(2) Loiters for the purpose of unlawful gambling with cards, dice or other gambling paraphernalia;

(3) Loiters for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse;

(4) With intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loiters in a school building or on school grounds or within one hundred (100) feet of school grounds when persons under the age of eighteen (18) are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil or any other specific legitimate reason for being there, and having been asked to leave by a school administrator or his or her representative or by a peace officer; or

(5) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 10-8-10 of this Chapter.

(c) It is an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her rights of lawful assembly as part of a peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise. (Ord. 347 §1, 2008)

Sec. 10-5-60. Assault.

(a) An assault is an unlawful attempt of a person, coupled with a present ability, to commit a bodily injury on another person.

(b) It is unlawful to assault, beat, strike, wound, imprison or inflict violence on another person. (Prior code 10-5-7; Ord. 347 §1, 2008)

Sec. 10-5-70. Vagrancy.

It shall be unlawful for any person to be deemed a vagrant in the City. The following persons shall be deemed vagrants in the City:

(1) Any person found loitering or strolling in, about or upon any street, lane, avenue, alley or any other public way or public place, at any public gathering or assembly, in or around any store, shop or business or commercial establishment, or on any private property or place without lawful business, and conducting himself or herself in a lewd, wanton or lascivious manner in speech or behavior.

(2) Any person upon whose person or in whose possession is found any instrument, tool or other implement for picking locks or pockets, or any implement that is usually employed or that reasonably may be inferred is designed to be employed in the commission of any felony or misdemeanor or in the violation of any provision of this Code.

(3) Any person wandering abroad and occupying, lodging or sleeping in any vacant or unoccupied barn, garage, shed, shop or other building or structure, or in any automobile, truck, railroad car or other vehicle, without owning the same or without permission of the owner or person entitled to the possession of the same, or sleeping in any vacant lot during the hours of darkness.

(4) Any person wandering abroad and begging; or any person who goes about from door to door of private homes or commercial and business establishments or places himself in or upon, any public way or public place to beg or receive alms for himself or herself.

(5) Any person who knowingly keeps a place where lost or stolen property is concealed.

(6) Any person who is the keeper, proprietor, exhibitor or user of any gambling table or device, or who assists at or attends any gambling table or device, or any person who, for the purpose of gambling or gaming, travels about from place to place or frequents places where alcoholic beverages are sold, such as railroad cars, trains, depots, buildings or structures, whether occupied or vacant.

(7) Any person who is found trespassing in the nighttime upon the private premises of others. (Prior code 10-5-11; Ord. 347 §1, 2008)

Sec. 10-5-80. False alarms.

Any person who in this City intentionally makes or gives a false alarm of fire shall be deemed guilty of a misdemeanor. (Prior code 10-5-6; Ord. 347 §1, 2008)

Sec. 10-5-90. Throwing stones or missiles.

No person shall throw or shoot any stone or other missile at or upon any person, animal, public or private property, building, structure, tree or shrub. (Prior code 10-5-19)

Sec. 10-5-100. Storage of flammable liquids.

It is unlawful to store or cause to be stored or parked, except for delivery, any tank vehicle carrying flammable liquids or gases upon any streets, ways or avenues of the City or in any other part of the City, except those areas zoned for such uses. (Prior code 10-5-1; Ord. 347 §1, 2008)

Sec. 10-5-110. Explosives.

It is unlawful for any person to store within the City limits or within one (1) mile thereof any amount of gunpowder, blasting powder, nitroglycerine, dynamite or other high explosive in

excess of one (1) fifty-pound box or in excess of five hundred (500) caps or other devices used for the detonation of such high explosives. (Prior code 10-5-5; Ord. 347 §1, 2008)

Sec. 10-5-120. Abandoned containers and appliances.

It is unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, structure or dwelling under his or her control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator, washer, dryer, freezer or other container or appliance which has a door, lid, snap lock or other locking device which may not be released from the inside, without first removing said door, lid, snap lock or other locking device. (Prior code 10-5-3; Ord. 347 §1, 2008)

Sec. 10-5-130. Broken glass, dangerous substances.

It is unlawful for any person to throw, deposit or cause to be thrown or deposited on any street, alley, sidewalk or other public way any broken glass, broken crockery, nails or any other dangerous substance. (Prior code 10-5-2; Ord. 347 §1, 2008)

Sec. 10-5-140. Fraud by check.

(a) As used in this Section, unless the context otherwise requires:

Check means a written, unconditional order to pay a certain sum in money, drawn on a bank, payable on demand, and signed by the drawer. *Check*, for the purposes of this Section only, also includes a negotiable order of withdrawal and a share draft.

Drawee means the bank upon which a check is drawn or a bank, savings and loan association, industrial bank or credit union on which a negotiable order of withdrawal or a share draft is drawn.

Drawer means a person, either real or fictitious, whose name appears on a check as the primary obligor, whether the actual signature is that of himself or herself or of a person authorized to draw the check on himself or herself.

Insufficient funds means a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account or share draft account with the drawee, or has funds in such an account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of issuance; and a check dishonored for "no account" shall also be deemed to be dishonored for insufficient funds.

Issue. A person issues a check when he or she makes, draws, delivers or passes it or causes it to be made, drawn, delivered or passed.

Negotiable order of withdrawal and share draft mean negotiable or transferable instruments drawn on a negotiable order of withdrawal account or a share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

Negotiable order of withdrawal account means an account in a bank, savings and loan association or industrial bank, and *share draft account* means an account in a credit union, on which payment of interest or dividends may be made on a deposit with respect

to which the bank, savings and loan association, industrial bank or credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than thirty (30) days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.

(b) Any person, knowing he or she has insufficient funds with the drawee who, with intent to defraud, issues a check for a sum less than five hundred dollars (\$500.00) for the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, commits fraud by check, which is unlawful.

(c) Any person, having acquired rights with respect to a check, which is not paid because the drawer has insufficient funds, shall have standing to file a complaint under this Section, whether or not he or she is the payee, holder or bearer of the check.

(d) Any person who opens a checking account, negotiable order of withdrawal account or share draft account using false identification or an assumed name for the purpose of issuing fraudulent checks commits fraud by check, which is unlawful.

(e) If deferred prosecution is ordered, the court as a condition of supervision may require the defendant to make restitution on all checks issued by the defendant which are unpaid as of the date of commencement of the supervision in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.

(f) A bank, savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information

relating to the drawer's account to a sheriff, deputy sheriff, undersheriff, police officer, district attorney, assistant district attorney, deputy district attorney or authorized investigator for a district attorney investigating or prosecuting a charge under this Section.

(g) This Section does not relieve the prosecution from the necessity of establishing the required culpable mental state. However, for purposes of this Section, the issuer's knowledge of insufficient funds is presumed, except in the case of a postdated check or order, if:

(1) He or she has no account upon which the check or order is drawn with the bank or other drawee at the time he or she issues the check or order; or

(2) He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issue. (Ord. 347 §1, 2008)

ARTICLE 6

Public Decency and Morals

Sec. 10-6-10. Definitions.

As used in this Article, the following words shall have the definitions ascribed to them, unless otherwise provided:

House of prostitution means a house or place kept or resorted to for the purpose of prostitution.

Lewd act means an indecent, wanton and lascivious act committed in the presence of another or in a place open to the public view. *Lewd act* shall include an appearance in the state of nudity or in any indecent or lewd dress, indecent exposure and exposure of the private parts.

Meretricious display means any act, sign, gesture or manifestation which allures or is calculated to allure, entices or is calculated to entice, by a false show, gaudiness, tawdry ornamentation or lascivious suggestion for purposes of prostitution.

Obscene means material or a performance that:

a. The average person, applying contemporary community standards, would find that, taken as a whole, appeals to the prurient interest in sex.

b. Depicts or describes:

1. Patently offensive representations or descriptions of ultimate sex acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy and sexual bestiality; or

2. Patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, or covered male genitals in a discernibly turgid state.

c. Taken as a whole, lacks serious literary, artistic, political or scientific value.

Prostitute means one who engages in prostitution as defined in this Article.

Prostitution means the offering or receiving of the body for sexual intercourse or other physical sexual activity for hire. The term *prostitution* also includes the indiscriminate or promiscuous offering or receiving of the body for sexual intercourse or other physical sexual activity without hire. (Prior code 10-4-1; Ord. 347 §1, 2008)

Sec. 10-6-20. Public indecency.

It is unlawful to commit public indecency. Any person who performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits public indecency:

(1) An act of sexual intercourse or deviate sexual intercourse;

(2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person; or

(3) A lewd fondling or caress of the body of another person. (Ord. 347 §1, 2008)

Sec. 10-6-30. Indecent exposure.

It is unlawful for a person to knowingly expose his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Ord. 347 §1, 2008)

Sec. 10-6-40. Offenses relating to prostitution.

It is unlawful for any person to:

(1) Commit, offer or agree to commit a lewd act or an act of prostitution.

(2) Secure or offer another person for the purpose of committing a lewd act or an act of prostitution.

(3) Be in or near any place frequented by the public, or any public place, for the purpose of inducing, enticing or procuring another person to commit a lewd act or an act of prostitution.

(4) Make a meretricious display in or near any public place, any place frequented by the public or any place open to the public view.

(5) Transport knowingly any person to any place for the purpose of committing a lewd act or an act of prostitution.

(6) Receive, offer or agree to receive knowingly any person into any place or building for the purpose of performing a lewd act or an act of prostitution; or to permit knowingly any person to remain in any place or building for any such purpose.

(7) Direct, offer or agree to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution.

(8) In any manner aid, abet, suffer, permit or participate in the doing of any of the act prohibited by Subsections (1) through (7) above. (Prior code 10-4-2; Ord. 347 §1, 2008)

Sec. 10-6-50. House of prostitution.

It is unlawful to keep or maintain any house of prostitution or house of ill fame where men and women resort for the purpose of prostitution in the corporate limits of the City. (Prior code 10-4-3; Ord. 347 §1, 2008)

Sec. 10-6-60. Indecent acts, abusive language.

It is unlawful for any person to commit any indecent or filthy act in any place within the City; to utter any filthy word or abusive or filthy language in the hearing of other persons publicly; or to make any obscene gesture to or about any other person publicly. (Prior code 10-4-5; Ord. 347 §1, 2008)

Sec. 10-6-70. Promotion of obscenity.

A person commits promotion of obscenity to an individual the age of eighteen (18) years or older if, knowing its content and character, such person:

(1) Promotes or possesses with intent to promote any obscene material; or

(2) Produces, presents or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity. (Prior code 10-4-6; Ord. 347 §1, 2008)

Sec. 10-6-80. Window peeping.

It is unlawful for any person to trespass upon the property owned or occupied by another person in the City for the purpose of looking or peeping into any window, door, skylight or other opening in the house, room or building; or to loiter in a public street, alley, parking lot or other public place for the purpose of wrongfully observing the actions of the occupants of such house, room or building. (Prior code 10-4-7; Ord. 347 §1, 2008)

ARTICLE 7

Minors

Sec. 10-7-10. Parent or guardian aiding, abetting.

It is unlawful for any person to knowingly permit any minor child, to violate, or to aid, abet, approve, encourage, allow, permit, tolerate or consent to the violation by any minor child of any provision of this Article or any ordinances of the City. (Prior code 10-6-7; Ord. 347 §1, 2008)

Sec. 10-7-20. Encouraging delinquency.

It is unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come within the purview of the juvenile authorities; and it is likewise unlawful for any person, after notice that a driver's license of any child

has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended. (Prior code 10-6-9; Ord. 347 §1, 2008)

Sec. 10-7-30. False statement; false credentials.

It is unlawful for any person under twenty-one (21) years of age to make false statements, to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose, or to furnish, present or exhibit such document issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places or for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages as defined in this Chapter. (Prior code 10-6-9; Ord. 347 §1, 2008)

Sec. 10-7-40. Services of others.

It is unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the person under the age of twenty-one (21) years is forbidden by law to purchase. (Prior code 10-6-12; Ord. 347 §1, 2008)

Sec. 10-7-50. Purchase for minors.

It is unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any article

which the person under the age of twenty-one (21) years is forbidden by law to purchase. (Prior code 10-6-13; Ord. 347 §1, 2008)

Sec. 10-7-60. Loitering and other acts around schools.

It is unlawful for any person to loiter, idle, wander, stroll or play in, about or on any public, private or parochial school, college or seminary grounds or buildings, either on foot or in or on any vehicle, without having some lawful business therein or thereabout or in connection with such school or the employees thereof; or for any person to:

(1) Annoy, disturb or otherwise prevent the orderly conduct of classes and activities of any such school.

(2) Annoy, disturb, assault or molest any student or employee of any such school, college or seminary while in any such school building or on any school grounds.

(3) Conduct himself or herself in a lewd, wanton or lascivious manner in speech or behavior in or about any school building or school grounds.

(4) Park or move a vehicle in the immediate vicinity of or on the grounds of any such school, college or seminary for the purpose of annoying or molesting the students or employees thereof, or in an effort to induce, entice or invite students into such vehicles for immoral purposes. (Prior code 10-6-14; Ord. 347 §1, 2008)

ARTICLE 8

Alcoholic Beverages and Drugs

Sec. 10-8-10. Definitions.

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

Alcoholic beverage or *alcoholic liquor* means fermented malt beverage or malt, vinous or spirituous liquors.

Controlled substance means a drug or other substance or an immediate precursor, which is declared to be a controlled substance under this Article, and also includes marijuana, marijuana concentrate and cocaine.

Drug paraphernalia means any machine, instrument, tool, equipment or device, which is primarily designed and intended for one (1) or more of the following:

- a. To introduce into the human body any controlled substance under circumstances in violation of state law;
- b. To enhance the effect on the human body of any controlled substance under circumstances in violation of state law;
- c. To conceal any quantity of any controlled substance under circumstances in violation of state law; or
- d. To test the strength, effectiveness or purity of any controlled substance under circumstances in violation of state law.

Establishment means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group or residence,

and any real property, including buildings and improvements connected therewith, and shall also include any members, employees and occupants associated therewith.

Fermented malt beverage means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product or any combination thereof in water containing not less than one-half of one percent (0.5%) and not more than three and two-tenths percent (3.2%) alcohol by weight.

Malt liquor includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof, in water containing more than three and two-tenths percent (3.2%) of alcohol by weight.

Private property means any dwelling and its curtilage which is being used by a natural person for habitation and which is not open to the public, and privately owned real property, which is not open to the public. *Private property* shall not include:

- a. Any establishment, which has or is required to have a license pursuant to Article 46, 47 or 48 of Title 12, C.R.S.;
- b. Any establishment which sells alcoholic beverages or upon which alcoholic beverages are sold; or
- c. Any establishment, which leases, rents or provides accommodations to members of the public generally.

Public place means any place commonly or usually open to the general public or to which members of the general public may resort, or accessible to members of the

general public. By way of illustration, such public places include but are not limited to public ways, streets, buildings, sidewalks, alleys, parking lots, shopping centers, shopping center malls, places of business usually open to the general public, and automobiles or other vehicles in or upon any such place or places, but shall not include the interior or enclosed yard area of private homes, residences, condominiums or apartments.

Spirituos liquor means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least one-half of one percent (0.5%) alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except malt liquors and vinous liquors shall be construed to be spirituous liquor.

Vinous liquor means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. 347 §1, 2008)

Sec. 10-8-20. Alcohol-related violations.

(a) It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be over the age of twenty-one (21) years for the purpose of purchasing within the City any fermented malt beverage or malt, vinous or spirituous liquors.

(b) It is unlawful for any person under the age of twenty-one (21) years to attempt to purchase, purchase or obtain, either directly or through an intermediary, any fermented malt beverage or malt, vinous or spirituous liquors by misrepresentation or any other means.

(c) It is unlawful for any person under the age of twenty-one (21) years to possess or consume, whether actual or constructive, fermented malt beverage or malt, vinous or spirituous liquors.

(d) It is unlawful to sell fermented malt beverage or malt, vinous or spirituous liquors to any person under the age of twenty-one (21) years, or to permit any fermented malt beverage, malt or vinous liquors to be sold or dispensed by a person under eighteen (18) years of age, or spirituous liquors to be sold or dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof.

(e) It is unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any fermented malt beverage or malt, vinous or spirituous liquors. (Ord. 347 §1, 2008)

Sec. 10-8-30. Solicitation of drinks.

(a) It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises to purchase any alcoholic beverage for the one (1) begging or soliciting.

(b) It is unlawful for the proprietor or operator of any such establishment to allow the presence in such establishment of any person who violates the provisions of this Section. (Prior code 10-4-4; Ord. 347 §1, 2008)

Sec. 10-8-40. Drunk and disorderly.

It is unlawful for any person to be drunk or disorderly on any highways, streets, thoroughfares or other public places, or in any private house or place, within the City, to such an extent as to be obnoxious to public morals or to jeopardize or to be injurious to person or property. (Prior code 10-5-9; Ord. 347 §1, 2008)

Sec. 10-8-50. Illegal possession or consumption of alcoholic beverages by an underage person.

(a) Any person under twenty-one (21) years of age who possesses or consumes alcoholic beverages anywhere in the City commits illegal possession or consumption of alcoholic beverages by an underage person. Illegal possession or consumption of alcoholic beverages by an underage person is a strict liability offense.

(b) It is an affirmative defense to the offense described in Subsection (a) above that the alcoholic beverages were possessed or consumed by a person under twenty-one (21) years of age under the following circumstances:

(1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the alcoholic beverages were possessed or consumed with the consent of his or her parent or legal guardian who was present during such possession or consumption; or

(2) When the existence of alcoholic beverages in a person's body was due solely to the ingestion of a confectionery which contained alcoholic beverages within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S., or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes or solely

from the ingestion of a beverage which contained less than one-half of one percent (0.5%) of alcoholic beverages by weight.

(c) The possession or consumption of alcoholic beverages shall not constitute a violation of this Section if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.

(d) Prima facie evidence of a violation of Subsection (a) of this Section shall consist of:

(1) Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed alcoholic beverages anywhere in this State; or

(2) Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with alcoholic beverage intoxication or impairment while present anywhere in this State.

(e) During any trial for a violation of Subsection (a) above, any bottle, can or other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol" or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages.

(f) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian,

may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in Paragraph (b)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under twenty-one (21) years of age. (Ord. 347 §1, 2008)

Sec. 10-8-60. Sales near schools.

It is unlawful for any hotel or restaurant license, as defined in Section 12-47-411, C.R.S. to be issued for any premises within a distance of one hundred (100) feet from any private, public or parochial school. It is unlawful for any other class of license, as listed in Section 12-47-401, C.R.S. to be issued for any premises within a distance of two hundred sixty (260) feet from any private, public or parochial school. Said distance to be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which liquor is to be sold, using a route of direct pedestrian access. However, this prohibition shall not affect the rights of any person holding, at the time of the initial ordinance codified herein, a lawful permit or license to conduct such business within the restricted area hereby established; nor shall such prohibition prevent the renewal upon the expiration thereof of any license in effect at such time authorizing such business within the restricted area hereby established. (Ord. 376, § 2, 2013)

Sec. 10-8-70. Alcoholic beverages in certain places.

(a) No person shall carry or have any open containers of alcoholic beverages on any street, sidewalk, alley or other public place, in any automobile or on the grounds or in the facilities of any public or private school, college or university except where authorized by the governing authority of such institution.

(b) No person shall drink any alcoholic beverages in or on any of the above-enumerated places.

(c) The foregoing prohibitions shall not apply to any place duly licensed for the sale of alcoholic beverages. (Prior code 10-5-10; Ord. 347 §1, 2008)

Sec. 10-8-80. Open container.

It is unlawful for any person to possess or consume by open container any alcoholic beverage, whether such possession is actual or constructive, in any public place as defined in Section 10-8-10 of this Chapter, upon property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or upon property owned, operated, leased or maintained by the City; provided, however, that it shall not be a violation of this provision to store or consume any alcoholic beverage in conformance with, and pursuant to the terms of, any validly issued permit or license. For the purpose of this Section, an unsealed or open container shall not include a container of vinous liquor that has been resealed pursuant to the provisions of Section 12-47-411(3.5), C.R.S., and is clearly recognizable to a peace officer as a container that has been resealed by the hotel or restaurant license holder. (Ord. 347 §1, 2008)

Sec. 10-8-90. Possession of drug paraphernalia.

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and intends to use the drug paraphernalia under circumstances in violation of state law.

(b) Any person who commits possession of drug paraphernalia commits a Class 2 petty offense. (Ord. 347 §1, 2008)

Sec. 10-8-100. Possession of cannabis.

(a) For the purposes of this Section, the term cannabis shall include all parts of the plant *Cannabis sativa* L., whether growing or not; the seed thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt derivative, mixture or preparation of such plant, its seeds or resin; but shall not include the mature stalks of such plant, fiber produced from its stalks, oil or cake, or the sterilized seed of such plant, which is incapable of germination.

The term cannabis concentrate means hashish, tetrahydrocannabinols or any alkaloid, salt derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinols.

(b) It is unlawful to possess one (1) ounce or less of cannabis or cannabis concentrate, and upon conviction thereof, or plea of guilty or no contest thereto, punishment shall not be by imprisonment, but shall be by a fine of not more than one hundred dollars (\$100.00).

(c) It is unlawful openly and publicly to display or consume one (1) ounce or less of cannabis concentrate, and upon conviction thereof, or a plea of guilty or no contest thereto, punishment shall be as set out in Section 1-4-20 of this Code.

(d) The provisions of this Section shall not apply to any person who possesses or uses cannabis or cannabis concentrate pursuant to the Dangerous Drugs Therapeutic Research Act. (Ord. 347 §1, 2008)

Sec. 10-8-110. Abusing toxic vapors.

(a) As used in this Section, the term toxic vapors means the following substances or products containing such substances: alcohols, including methyl, isopropyl, propyl or butyl; aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate; acetone; benzene; carbon tetrachloride; cyclohexane; Freons, including Freon 11 and Freon 12; hexane; methyl ethyl ketone; methyl isobutyl ketone; naphtha; perchlorethylene; toluene; trichloroethane or xylene.

(b) No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system. No person shall knowingly possess, buy or use any such substance for the purposes described in this Section. This Subsection shall not apply to the inhalation of anesthesia for medical or dental purposes.

(c) It is unlawful for any person knowingly to sell, offer for sale, deliver or give away to any other person any substance or product releasing toxic vapors, where

the seller, offeror or deliverer knows or has reason to believe that such substance will be used for the purpose of inducing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system.

(d) In a prosecution for a violation of this Section, evidence that a container lists one (1) or more of the substances described in Subsection (a) above as one (1) of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof. (Ord. 347 §1, 2008)

Sec. 10-8-120. Marijuana cultivation, manufacturing, testing and retail establishments prohibited.

(a) Marijuana establishments prohibited. The operation, ownership, establishment or conduct of marijuana cultivation facilities, marijuana establishments, marijuana product manufacturing facilities, marijuana products facilities, marijuana testing facilities and retail marijuana stores thereof is unlawful and prohibited within the City of Creede.

(b) Definitions. Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in Article XVIII, Section 16 of the Colorado Constitution. These definitions include, but are not limited to the following:

(1) *Marijuana* or *marihuana* means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. *Marijuana* or *marihuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

(2) *Marijuana accessories* means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

(3) *Marijuana cultivation facility* means an entity licensed to cultivate, prepare and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

(4) *Marijuana establishment* means a marijuana cultivation facility, a marijuana testing facility, or marijuana product manufacturing facility, or a retail marijuana store.

(5) *Marijuana product manufacturing facility* means an entity licensed to purchase marijuana; manufacture, prepare and package marijuana products; and well marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

(6) *Marijuana products* means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use and consumption, such as, but not limited to, edible products, ointments, and tinctures.

(7) *Marijuana testing facility* means an entity licensed to analyze and certify the safety and potency of marijuana.

(8) *Retail marijuana store* means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers. (Ord. 375, §3, 2013)

ARTICLE 9

Weapons

Sec. 10-9-10. Definitions.

(a) As used in this Article, unless the context otherwise requires, the following definitions shall apply:

Ballistic knife means any knife that has a blade, which is forcefully projected from the handle by means of a spring-loaded device or explosive charge.

Blackjack includes any billy, sand club, sandbag or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact.

Bomb means any explosive or incendiary device or Molotov cocktail as defined in Section 9-7-103, C.R.S., or any chemical device which causes or can cause an explosion, which is not specifically designed for lawful and legitimate use in the hands of its possessor.

Firearm silencer means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent or intended to lessen or muffle the noise of the firing of any such weapon.

Gas gun means a device designed for projecting gas-filled projectiles, which release their contents after having been projected from the device, and includes projectiles designed for use in such device.

Gravity knife means any knife that has a blade released from the handle or sheath thereof by the force of gravity or the application of centrifugal force that, when released, is locked in place by means of a button, spring, lever or other device.

Handgun means a pistol, revolver or other firearm of any description, loaded or unloaded, from which any shot, bullet or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable or magazine breech, does not exceed twelve (12) inches.

Knife means any dagger, dirk, knife or stiletto with a blade over three and one-half (3½) inches in length, or any other dangerous instrument capable of inflicting cutting, stabbing or tearing wounds; but does not include a hunting or fishing knife carried for sports use. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense.

Machine gun means any firearm, whatever its size and usual designation, that shoots automatically more than one (1) shot, without manual reloading, by a single function of the trigger.

Nunchaku means an instrument consisting of two (2) sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain which is in the design of a weapon used in connection with the practice of a system of self-defense.

Short rifle means a rifle having a barrel less than sixteen (16) inches long or an overall length of less than twenty-six (26) inches.

Short shotgun means a shotgun having a barrel or barrels less than eighteen (18) inches long or an overall length of less than twenty-six (26) inches.

Stun gun means a device capable of temporarily immobilizing a person by the infliction of an electrical charge.

Switchblade knife means any knife the blade of which opens automatically by hand pressure applied to a button, spring or other device in its handle.

Throwing star means a disk having sharp radiating points or any disk-shaped bladed object which is handheld and thrown and which is in the design of a weapon used in connection with the practice of a system of self-defense.

(b) It is an affirmative defense to any provision of this Article, that the act was committed by a peace officer in the lawful discharge of his or her duties. (Ord. 347 §1, 2008)

Sec. 10-9-20. Carrying concealed weapon; forfeiture.

(a) It is unlawful for any person to wear under his or her clothes or concealed about his or her person, or to display in a threatening manner any dangerous or deadly weapon, including but not limited to any pistol, revolver, sling shot, cross-knuckles, metallic knuckles, Bowie knife, dirk, dagger or any kind of knife resembling a Bowie knife, or any other dangerous or deadly weapon.

(b) It is unlawful for any person to sell, offer to sell, display, use, possess or carry any knife having the appearance of a pocket knife, the blade of which can be opened by a flick of a button, pressure on the handle or other mechanical contrivance. Any such knife is hereby declared to be a dangerous or deadly weapon within the meaning of Subsection (a) above, and shall be subject to forfeiture to the City as provided in Subsection (c) below.

(c) Every person convicted of any violation of this Section shall forfeit to the City such dangerous or deadly weapon so concealed or displayed.

(d) Nothing in this Section shall be construed to forbid United States Marshals, sheriffs, constables and their deputies and any regular, special or ex officio police officer or other law enforcement officer from carrying or wearing, while on duty, such weapons as shall be necessary in the proper discharge of their duties. (Prior Code 10-5-15; Ord. 347 §1, 2008)

Sec. 10-9-30. Disposition of confiscated concealed weapons.

It is the duty of every police officer, upon making any arrest and taking such a concealed weapon from the person of the offender, to deliver the same to the Municipal Judge, to be held by him or her until the final determination of the prosecution for said offense. Upon the finding of guilt, it shall then be the duty of the Municipal Judge to deliver said weapon forthwith to the Chief of Police, who shall make disposition of the weapon. (Prior code 10-5-16; Ord. 347 §1, 2008)

Sec. 10-9-40. Prohibited use of weapons.

(a) A person commits a misdemeanor if he or she:

(1) Knowingly and unlawfully aims a firearm at another person;

(2) Recklessly or with criminal negligence discharges a firearm or shoots a bow and arrow.

(3) Knowingly sets a loaded gun, trap or device designed to cause an explosion upon being tripped or approached, and leaves it unattended by a competent person immediately present.

(4) Has in his or her possession a firearm while he or she is under the influence of intoxicating liquor or of a controlled substance. Possession of a permit issued under Section 18-12-105(2)(c), C.R.S., is no defense to a violation of this Section.

(5) Knowingly aims, swings or throws a throwing star or nunchaku at another person, or knowingly possesses a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container.

(6) Has in his or her possession, except within his or her own domicile, or carries or uses a revolver, pistol of any description, shotgun or rifle, which may be used for the explosion of cartridges; or any air gun, gas-operated gun, spring gun, or instrument, toy or weapon commonly known as a *pea-shooter*, *slingshot* or *beanie*; or any bow made for the purpose of throwing or projecting missiles of any kind or any means whatsoever, whether such instrument is called by any name set forth above or by any other name.

(b) Nothing contained in this Section shall prevent the use of any such instruments in shooting galleries or in any private grounds or residences under circumstances when such instrument can be fired, discharged or operated in such a manner as not to endanger persons or property and also in such manner as to prevent the projectile from traversing any grounds or space outside the limits of such gallery, grounds or residence. In addition, nothing contained herein shall be construed to prevent the carrying

of any type of gun whatsoever, when unloaded and properly cased, to or from any range or gallery.

(c) Nothing contained in this Section shall prevent the use of any such instruments by any peace officer as shall be necessary in the proper discharge of his or her duties. (Prior code 10-5-17; Ord. 347 §1, 2008)

Sec. 10-9-50. Selling weapons to intoxicated persons.

(a) It is unlawful for any person to purchase, sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant or depressant, to any person in a condition of agitation and excitability, or to any minor under the age of eighteen (18) years.

(b) Such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the City to such person. (Prior code 10-5-18; Ord. 347 §1, 2008)

ARTICLE 10

Noise

Sec. 10-10-10. Definitions.

For purposes of this Article, the following terms shall have the meanings ascribed to them as follows:

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage threatened or caused by an emergency.

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Noise disturbance means any sound which:

a. Either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities within the City. Elements to be considered in determining whether noise is excessive in a given situation include, but are not limited to, the following: Intensity of the noise, whether the noise is usual or unusual, whether the origin of the noise is natural or unnatural, the intensity of the ambient noise, the proximity of the noise to sleeping facilities, the zoning district within which the noise emanates, the time of day or night the noise occurs, the duration of the noise, whether the noise is continuous or intermittent and whether alternate methods are available to achieve the objectives of the sound-producing activity.

b. Exceeds the sound level limits set forth in this Article.

Person means any person, person's firm, association, co-partnership, joint venture, corporation or any entity public or private in nature. (Prior code 10-8-1; Ord. 336 §3, 2005; Ord. 347 §1, 2008)

Sec. 10-10-20. Prohibitions.

The following acts, which list shall not be deemed to be exclusive, are declared to be loud, objectionable and unnecessary noises and shall be deemed detrimental to the health and safety of the residents of the City and are prohibited by this Article.

(1) General prohibitions. No person or persons shall make, cause to be made, assist in making or continue any excessive, unnecessary, unreasonably loud noise or disturbance or any noise or disturbance

which disturbs, destroys or endangers the comfort, health, peace or safety of others within the immediate vicinity of the noise or disturbance as described above in the definitions for unreasonable noise. Without limitations, the commission of one (1) or more of the following acts shall be deemed a violation of this Article and shall be considered as a noise disturbance.

(2) Construction-related activities. Noises emanating from the road construction or from the excavation, demolition, alteration or repair of buildings, structures or property between the hours of 10:00 p.m. and 7:00 a.m.

(3) Loud speakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public.

(4) Horns, signaling devices, etc. The sounding of any horn or signal on any automobile, motorcycle or other vehicle except as a danger warning; the creation, by means of any other signaling device, of any unreasonable loud or harsh sound; and the sounding of any such device for unnecessary and/or unreasonable periods of time.

(5) Exhaust. The discharge into the open air of the exhaust of any steam engine, internal combustion engine, motorboat or motor vehicle except through a muffler or other device that will effectively prevent loud or explosive noises.

(6) Maximum sound levels for time and land use:

Residential	8:00 a.m. – 9:00 p.m.	65
	9:00 p.m. – 8:00 a.m.	60
Commercial	7:00 a.m. – 10:00 p.m.	70
	10:00 p.m. – 7:00 a.m.	65
Industrial	7:00 a.m. – 10:00 p.m.	75
	10:00 p.m. – 7:00 a.m.	70

(Prior code 10-8-1; Ord. 336 §3, 2005; Ord. 347 §1, 2008)

Sec. 10-10-30. Exemptions.

Sounds from the following sources shall be exempt from the prohibitions specified herein:

(1) Any vehicle owned by and operated by governmental agencies or a utility in the performance of its duties.

(2) Noise associated with routine snow-removal activities where customary practices and equipment are used and where the snow removal equipment is operated within the manufacturer's specifications and in proper operating condition.

(3) All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work, including but not limited to police, fire and medical/rescue vehicle sirens.

(4) Noise associated with a bona fide response to an emergency situation that poses a threat to the public health, safety or welfare.

(5) Musical, recreational and athletic events conducted by and on the site of a school or educational institution and municipal institutions.

(6) Equipment for maintenance of lawns and grounds during the hours of 7:00 a.m. and 10:00 p.m.

(7) Noises emanating from the road construction or from the excavation, demolition, alteration or repair of buildings, structures or property between the hours of 7:00 a.m. and 10:00 p.m.

(8) The Days of '92 and sanctioned Fourth of July events and activities.

(9) Any public display of fireworks authorized by the Fire Marshal. (Prior code 10-8-1; Ord. 336 §3, 2005; Ord. 347 §1, 2008)

Sec. 10-10-40. Measurement or assessment of sound.

Measurement with sound level meter.

(1) The measurement of sound shall be made with a sound level meter meeting the standards prescribed by ANSI S1.4-1971 (R1976). The instruments shall be maintained in calibration and in good working order. A calibration check shall be made of the system at the time of any sound level measurement. Measurements shall be taken so as to provide a proper representation of the source of the sound. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used at all times. However, a violation of this Article may occur without the occasion of the measurements being made as otherwise provided.

(2) The slow meter response of the sound level meter shall be used in order to best determine the average amplitude.

(3) The measurement shall be made at any point from at least twenty-five (25) feet away from any ground, wall, floor, ceiling, roof and other plane surface.

(4) In case of multiple occupancy of a property, the measurement may be made at any point inside the premises to which any complainant has right of legal private occupancy, provided that the measurement shall not be made within three (3) feet of any ground, wall, floor, ceiling, roof or other plane surface. (Prior code 10-8-1; Ord. 336 §3, 2005; Ord. 347 §1, 2008)

Sec. 10-10-50. Penalties.

(a) First offense: A first offense of any provision of this Article by a person shall result in a warning.

(b) Second offense: A second offense of any provision of this Article by a person shall be punishable by a fine of one hundred dollars (\$100.00)

(c) Third and subsequent offenses: A third and subsequent offense during a twelve-month period from the date of the first offense shall be punishable by a fine of two hundred fifty dollars (\$250.00). Each subsequent offense within the twelve-month period shall be punishable by a fine of five hundred dollars (\$500.00).

(d) Payment deadline: All fees must be paid within twenty (20) days of receipt of notice. If fees are paid after the twenty (20) days, an additional fee of ten dollars (\$10.00) will be charged. (Prior code 10-8-1; Ord. 336 §3, 2005; Ord. 347 §1, 2008)

Sec. 10-10-60. Enforcement.

(a) Enforcement. Any certified Colorado law enforcement officer shall be designated enforcement officer. He or she shall issue complaints and may be the appearing officer at any hearing.

(b) An enforcement officer may issue a Municipal Code Violation Complaint to the individual responsible for any such device emitting sound in violation of this Article, including the driver of a motor vehicle, the first registered owner of the vehicle, the owner of record or a resident of a single-family home or apartment, the proprietor of a business or the person who is in physical control of the device or animal responsible for the unreasonable or excessive noise. (Prior code 10-8-1; Ord. 336 §3, 2005; Ord. 347 §1, 2008)

ARTICLE 11

Animals

Sec. 10-11-10. Cruelty to animals.

It is be unlawful for any person to overdrive, overload, drive when overloaded, overwork, torture, deprive of necessary sustenance, cruelly beat, mutilate, kill needlessly or carry or transport in any vehicle or otherwise in a cruel and inhuman manner, any animal, or to cause any of these acts to be done. Further, it is unlawful for any person firm or corporation to confine any animal in a parked or stationary vehicle unattended for a period of more than thirty (30) minutes. Excessive noise from a confined animal from a parked or stationary vehicle so as to annoy, injure or endanger the comfort, repose, health or safety of others is prohibited. (Prior code 10-7-1; Ord. 306 §II, 1998; Ord. 347 §1, 2008)

Sec. 10-11-20. Starvation of animals.

It is unlawful for any person having charge or custody of any animal to fail to provide it with proper food, drink and protection from the weather, or to cause any of these acts to be done. (Prior code 10-7-2; Ord. 347 §1, 2008)

Sec. 10-11-30. Abandonment of animals.

It is unlawful for any person to abandon any animal, or to cause such abandonment to be done. (Prior code 10-7-3; Ord. 347 §1, 2008)

Sec. 10-11-40. Keeping place for fighting animals.

It is unlawful for any person to keep or cause to be kept any place where any fowls or animals are suffered to fight upon exhibition, or for sport upon any wager. (Prior code 10-7-4; Ord. 347 §1, 2008)

Sec. 10-11-50. Supply of food to enclosed animals.

In case any animal is at any time enclosed or confined and continues to be without necessary food or water for more than twelve (12) consecutive hours, it shall be lawful for any person from time to time, and as often as necessary, to enter into or upon any such enclosure in which any such animal is confined, and supply it with necessary food and water so long as it remains so confined. Such person shall not be liable for such entry, and he or she may collect the reasonable cost of such feed and water from the owner of such animal. (Prior code 10-7-5; Ord. 347 §1, 2008)

Sec. 10-11-60. Poisoning domesticated animals.

It is unlawful for any person to poison any dog or to distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any domesticated animals. (Prior code 10-7-6; Ord. 347 §1, 2008)

Sec. 10-11-70. Frightening or killing songbirds and insectivorous birds.

It is unlawful for any person at any time within the City limits to frighten, shoot at, wound, kill, take, capture, ensnare, net, trap or in any other manner molest or injure any robin, lark, whip-poor-will, finch, sparrow, thrush, wren, martin, swallow, snowbird, bobolink, red-winged blackbird, crow, raven, oriole, kingbird, mockingbird, song sparrow or other songbird or insectivorous bird; or in any manner molest or injure the nest eggs or young of any such bird, or have in possession the nest, eggs, young or body of such bird. (Prior code 10-7-7; Ord. 347 §1, 2008)

ARTICLE 12

Fireworks

Sec. 10-12-10. Definitions.

As used in this Article, the following words shall have the definitions ascribed to them, unless otherwise provided:

Fireworks means and includes any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including without limitation the following articles and devices commonly known and used as fireworks: toy cannons, toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, and Day-Glo bombs.

Fireworks shall not include fountains, pinwheels, toy pistols, toy guns, sparklers or torches which do not contain explosive

charges or other devices in which paper caps manufactured in accordance with the United States Interstate Commerce Commission regulations for packing and shipping of toy paper caps are used, and toy pistol paper caps manufactured as provided above. (Prior code 10-5-4; Ord. 347 §1, 2008)

Sec. 10-12-20. Unlawful to sell or use fireworks.

Except as otherwise provided in this Article, it is unlawful for any person to offer for sale, expose for sale, sell or have in his or her possession with intent to offer for sale, sell or use any fireworks within the City. (Prior code 10-5-4; Ord. 347 §1, 2008)

Sec. 10-12-30. Permits.

The Board of Trustees shall have the power to grant permits within the City for supervised public displays of fireworks by the municipality, amusement parks and other organizations and groups, and to adopt reasonable rules and regulations for the granting of such permits. Application for a permit shall be made in writing at least fifteen (15) days in advance of the date of display. Every display shall be handled by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person. Before a permit is granted, the Fire Chief shall approve the operator and the location and handling of the display after investigation. No permit shall be transferable or assignable. (Prior code 10-5-4; Ord. 347 §1, 2008)

Sec. 10-12-40. Bond required.

A satisfactory bond shall be required of each permittee in the sum of not less than five hundred dollars (\$500.00), conditioned for the payment of all damages which may be caused either

to persons or property by reason of the licensed display and arising from the acts of the permittee or his or her agents, employees or subcontractors. The aggregate liability of the surety on such bond for all damages in no event shall exceed the sum of such bond. (Prior code 10-5-4)

Sec. 10-12-50. Disposal of unfired fireworks.

Any fireworks that remain unfired after the display is concluded shall be immediately disposed of by the Fire Department using a method, which is safe for the discharge of that or those particular types of fireworks. (Prior code 10-5-4)

Sec. 10-12-60. Seizure of fireworks.

The Police Department shall seize, take and remove, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this Article. (Prior code 10-5-4)

Sec. 10-12-70. Construction.

This Article shall not be construed to prohibit:

(1) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell fireworks to any municipality, fair association, amusement park or other organization or group holding a permit issued as provided in this Article, or to the governing body of any county or district fair, organized under state law.

(2) Any person from using or exploding fireworks in accordance with the provisions in this Article or as a part of a supervised public display at any county or district fair organized under state law.

(3) Any person from offering for sale, exposing for sale, selling or having in his or her possession with intent to offer for sale or sell any fireworks which are to be sold and are shipped directly out of the State.

(4) Any person from offering for sale, exposing for sale, selling, having in his or her possession with intent to offer for sale or sell, or using or exploding any article, device or substance for a purpose other than display, exhibition, noise, amusement or entertainment.

(5) Any person from offering for sale, exposing for sale, selling, having in his or her possession with intent to offer for sale or sell, or using or exploding blank cartridges for a show or theater, or for signal or ceremonial purpose in organized athletics or sports.

(6) Any person from offering for sale, exposing for sale, selling, having in his or her possession with intent to offer for sale or sell, or using or firing toy pistols, toy guns, sparklers or torches which do not contain explosive charges or other devices in which paper caps manufactured in accordance with United States Interstate Commerce Commission regulations for packing and shipping of toy paper caps are used, and toy pistol paper caps manufactured as provided in this Article. (Prior code 10-5-4; Ord. 347 §1, 2008)

march or proceed along any street or roadway except in accordance with a permit issued by the Chief of Police and such other regulations as are set forth herein which may apply. (Prior code 10-8-13)

Sec. 10-13-20. Rock climbing.

(a) It is unlawful for anyone to attempt to climb any rock faces within the City limits for recreational purposes.

(b) It is unlawful for anyone to attempt to climb any rock faces within the City limits for any purpose without first having obtained permission from the Chief of Police.

(c) The Chief of Police shall not grant any permission to climb the cliffs in the City for any purposes except emergency, municipal or scientific purposes. (Ord. 312 §1, 2000; Ord. 347 §1, 2008)

ARTICLE 13

Miscellaneous Offenses

Sec. 10-13-10. Parade, procession permits required.

No funeral, procession or parade, excepting the forces of the United States armed services, the military forces of the State, and the forces of the Police and Fire Departments, shall occupy,

CHAPTER 11

Streets, Sidewalks and Public Property

Article 1 Streets and Sidewalks

- Sec. 11-1-10 Repair and maintenance
- Sec. 11-1-20 Snow and ice removal from sidewalks

Article 2 Excavations

- Sec. 11-2-10 Definition of public lands
- Sec. 11-2-20 Standards, regulations and specifications
- Sec. 11-2-30 Reporting
- Sec. 11-2-40 Permit required
- Sec. 11-2-50 Penalties

ARTICLE 1

Streets and Sidewalks

Sec. 11-1-10. Repair and maintenance.

The owner, occupant, lessee or person in possession or control of any premises or property shall maintain the sidewalks adjoining such premises or property in good repair and in a safe, unobstructed condition, free of snow, weeds and debris. (Ord. 347 §1, 2008)

Sec. 11-1-20. Snow and ice removal from sidewalks.

(a) Purpose and scope. The purpose of this Article is to require, according to the terms hereof, responsible parties to remove snow and ice from sidewalks immediately adjacent to structures owned or occupied by them and to require such removal within a specified period of time.

(b) Definitions. The following definitions shall apply herein:

Period of time means a twenty-four-hour period from the point in time that snow, as defined herein, commences to fall or that point in time when an accumulation of snow creates a hazardous condition, whichever comes sooner.

Responsible party means that person, partnership, corporation or other legal entity against which action may be taken for violation of this Article. *Responsible party* may be, but not by way of limitation, the owner, lessor, lessee, sub-lessee or occupant of any structure. *Responsible party* shall also mean that person owning, leasing, occupying or otherwise claiming a legal interest in and to a

particular lot, building or parcel within the City, and which lot, building or parcel has a sidewalk adjacent to, in on any side and on any street within the community.

Sidewalk means any structure of any material, which had been placed upon the ground or otherwise installed adjacent to any street within the boundaries of the City, which is utilized as a sidewalk, for the purpose of permitting the safe passage of persons on foot about the community, adjacent to said street.

Snow means any form of precipitation in the frozen form, be it snow, sleet, hail, freezing rain or a build-up and accumulation of any of the foregoing, causing a hazardous condition to persons attempting to use the sidewalk.

(c) Penalty.

(1) It shall be unlawful for any person, firm, corporation or responsible party to permit the accumulation of snow on any sidewalk within the City, for a period of time in excess of that set forth herein.

(2) Any person violating any provision of this Section shall be guilty of a misdemeanor and will be punished in accordance with the provisions of Section 1-4-20 of this Code.

(d) Declaration of nuisance. The Board of Trustees hereby declares that the accumulation of snow on any sidewalk within the City constitutes a public nuisance and may, therefore, in addition to the penalty provision set forth above, cause such accumulation to be removed from any offending sidewalk. The cost of such removal shall be billed to the owner of such

property or the responsible party and shall be treated as a portion of that person's utility indebtedness; and for nonpayment, such public utilities may be terminated until payment is made in full. (Ord. 203 §§1—4, 1976; Ord. 347 §1, 2008)

ARTICLE 2

Excavations

Sec. 11-2-10. Definition of public lands.

Public lands means lands owned or controlled by the City, to include streets, sidewalks, alleys, railroad tracks, crossings, rights-of-way and all other passageways within the City. (Ord. 324, 2001; Ord. 347 §1, 2008)

Sec. 11-2-20. Standards, regulations and specifications.

The Public Works Department, in consultation with the City Manager and the Public Works Director, shall develop standards, regulations and specifications governing access, utilization and restoration of all streets, alleys and rights-of-way within the corporate limits of the City, which standards, regulations and specifications shall not constitute a barrier to the use and excavation of City facilities, but shall preserve the integrity of the facilities at the least possible cost to City taxpayers. (Ord. 347 §1, 2008)

Sec. 11-2-30. Reporting.

The City Manager or Public Works Director shall report to the Board of Trustees the particulars of such regulations, specifications and standards as soon as possible, whereupon the same shall be adopted by the Board of Trustees. (Ord. 347 §1, 2008)

Sec. 11-2-40. Permit required.

(a) Any repair, construction, building, remodeling or other functions which damage or disturb the surface of public lands as defined above within the City limits are prohibited until such time as the entity, owner or contractor wishing to do the work has shown adequate reason for the proposed work, has obtained a written permit and the utilities for the area involved have been tagged by the City or appropriate entity. Approval of this permit will be valid for one (1) specific purpose only, and each permit must be accompanied by an insurance certificate naming the City as an additional insured in the amount specified on the permit, together with proof of workers' compensation insurance, equipment liability insurance and any other proof of insurance coverage the City may deem necessary. The certificate of insurance must cover liability for any injury to persons or property caused by the proposed project. Self-insurance is not acceptable. The City reserves the right to demand inspection of the entire insurance policy and endorsements, and will require at least thirty (30) days' prior notification of cancellation or nonrenewable during the course of the proposed project. In addition, a "hold-harmless" indemnification agreement will be required from the permit applicant. A permit application fee may be charged by the City to process an application.

(b) The City shall require a bond insuring that the City shall not be responsible to pay for any damage to the public lands. (Ord. 324 §1, 2001; Ord. 347 §1, 2008)

Sec. 11-2-50. Penalties.

Any violations of this Article shall be punishable in accordance with the provisions of Section 1-4-20 of this Code. In addition, the City may seek an injunction against continued operations which violate this Article. (Ord. 324 §2, 2001; Ord. 347 §1, 2008)

CHAPTER 13

Municipal Utilities

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ARTICLE 1**General Provisions****Sec. 13-1-10. Authority.**

The City is a governmental subdivision of the State of Colorado and a body corporate with those powers of a public corporation that are specifically granted for carrying out the objectives and purposes of the City. (Ord. 334 §1.1, 2005)

Sec. 13-1-20. Scope.

This Chapter has been adopted and promulgated pursuant to Section 32-1-1001(1)(m), C.R.S., and shall be treated and considered as new and comprehensive regulations, governing the operations and functions of the City. (Ord. 334 §1.2, 2005)

Sec. 13-1-30. Policy.

It is hereby declared that the provisions set forth in this Chapter will serve a public use and are necessary to ensure and protect the health, safety, prosperity, security and general welfare of the inhabitants of the City. (Ord. 334 §1.3, 2005)

Sec. 13-1-40. Purpose.

The purpose of this Chapter is to provide for the orderly financing, control, construction, management and operation of the water supply and distribution system, the sanitary sewer collection and treatment system and the drainage collection and transmission and detention systems of the City, including additions, extensions and connections thereto. (Ord. 334 §1.4, 2005)

Sec. 13-1-50. Intent of construction.

It is intended that this Chapter shall be liberally construed to effect the general purposes set forth herein, and that each and every part thereof

is separate and distinct from all other parts. No omission or additional material set forth in Chapter shall be construed as an alteration, waiver or deviation from any grant of power, duty or responsibility, or limitation or restriction, imposed or conferred upon the Board of Trustees by virtue of statutes now existing or subsequently amended, or under any contract or agreement existing between the City and any other governmental entity. Nothing contained herein shall be so construed as to prejudice or affect the right of the City to secure the full benefit and protection of any law which is now enacted or may subsequently be enacted by the Colorado General Assembly pertaining to the governmental or proprietary affairs of the City. (Ord. 334 §1.5, 2005)

Sec. 13-1-60. Amendment.

It is specifically acknowledged that the City shall retain the power to amend this Chapter as it deems appropriate, and such amendments shall be entered in the Minutes of the City and periodically incorporated in printed copies of this Chapter. Prior notice of these amendments shall not be required to be provided by the City exercising its amendment powers pursuant to this Section. (Ord. 334 §1.6, 2005)

Sec. 13-1-70. Water Department created.

There is hereby created and established a Water Department of the City for the purpose of the management, maintenance, care and operation of the waterworks of the City. (Ord. 184 §9-1-1, 1971)

Sec. 13-1-80. Public Works Director.

The Public Works Director shall have the immediate control and management of all things pertaining to the waterworks system. He or she shall perform all acts that may be necessary for the prudent, efficient and economical management and protection of the waterworks, subject

to the approval and confirmation of the Board of Trustees. The Board of Trustees shall have the power to prescribe such other and further rates, rules and regulations, as it may deem necessary. (Ord. 184 §9-1-2, 1971; Ord. 347 §1, 2008)

Sec. 13-1-90. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used herein shall be as follows:

Actual cost means all direct costs applicable to the construction of a given facility, including surveys, preliminary and design engineering, construction, inspection, administrative, regulatory agency fees, bond fees, all required easements and/or rights-of-way, plan approval fees, "as-built" drawings, attorneys' fees and other costs necessary for completion.

City Manager means the City Manager or, in his or her absence, his or her duly authorized agent.

Board of Trustees means the governing body of the City.

B.O.D. (Denoting five-day, 20 degrees Centigrade Biochemical Oxygen Demand) means the amount of oxygen, which is utilized in the aerobic decomposition of sewage under laboratory procedures in accordance with the current "Standard Methods for the Examination of Water and Wastewater."

Customer means any person, company, corporation or governmental authority or agency authorized to use the public water, sewer or drainage systems under a permit issued or otherwise authorized by the Board of Trustees or the City Manager.

Customer facilities means those facilities intended to serve one (1) customer only. Examples are water service lines and sewer service lines.

Developer means the person, firm, joint venture, partnership or corporation, which owns undeveloped land, i.e., land that does not have immediate access to water or sewer lines, and which seeks to have the land served by the City.

Engineer means the engineering firm, or duly authorized representative (engineer), designated by the City to act on its behalf in all engineering and related matters. This item includes a construction inspector employed by the Engineer or City.

EQR is an abbreviation for *Equivalent Residential Unit*, which is an average single-family detached residence or the equivalent, from a systems demand standpoint.

Industrial wastes means the liquid wastes from industrial processes, as distinct from sanitary sewage.

Inspector means the City Manager, Public Works Director, Engineer, agent, officers and employees of the City or other person so designated by the City Manager to perform inspections pursuant to this Chapter.

Local facilities means those facilities generally designed primarily to serve individual subdivisions or plats. Examples are: water distribution systems, collector sewer lines and storm drainage collection systems.

Master Plan means the adopted Master Plan of the City, as amended from time to time.

Oversize costs is applicable to part of the costs of a water distribution line, a collection sewer line or a storm sewer to be installed within or for a subdivision; but for which the City has also assigned a transmission function that results in the need for a larger conduit. *Oversize costs* are the incremental difference between the actual costs of the size line required by the City and the size required by the developer; however, for purposes of determining oversize, the minimum size shall be assumed to be eight-inch diameter for water; eight (8) inches for sanitary sewer; eighteen (18) inches for storm sewer – only pipe larger may be considered *oversized*. Engineering and inspection costs are assumed to be proportional to estimated or experienced construction costs. Incremental costs will be allowed for line fittings, valves, manholes and other appurtenances (if a size increase is required).

Owner means the land's record titleholder or lessee with planning powers.

Permit means written permission of the City authorizing connection to a water or sewer main of the City, granting the applicant a license to use the water and sewer systems or to receive water or sewer service from the system owned, operated or served by the City.

Person means any individual, firm, company, association, society, corporation or group.

Regional facilities mean those facilities generally serving the City's service areas as a whole. Examples are: water sources, water treatment plants and tanks, water transmission lines, trunk sewers, sewage treatment plant, major drain ways, storm water detention ponds and outlet works.

Sewer or *sewer main* means a City-owned sewer pipeline and tap, carrying sanitary sewage or approved industrial wastes only, and shall be installed in a public street or easement.

Sewer service line means the privately owned sewer line extending from the building drain to the sewer main tap onto the sewer main.

Sewage means any liquid waste containing animal or vegetable matter in suspension or solution from residences, commercial buildings, institutions and industrial establishments.

Shall is mandatory; *may* is permissive.

Suspended solids means the weight of filterable solids in milligrams present in one (1) liter of sewage.

System Development Fees (SDF) is a one-time, nonrefundable, capital fee assessed new customers (or existing customers having expanding demands) for connecting to, or utilizing each of, the City's utilities. The System Development represents the new customer's share in the City's equity in the regional facilities committed to serve that new customer.

Water main means a City-owned water pipeline carrying potable water only, and shall be installed in a public street or easement.

Water service line (lateral) means the privately owned water line extending from the curb valve and box to the customer's building. The City shall own, and be responsible for, that part of the service line in the public right-of-way or easement from the main tap to the curb valve and box. The customer shall own and be responsible for the remainder. (Ord. 334 §1.7, 2005)

ARTICLE 2**Ownership and Operation
of Facilities****Sec. 13-2-10. Responsibilities.**

(a) It is the City's responsibility to plan, finance, design and construct all designated regional facilities. The City will only construct such facilities, or portions thereof, when the Board of Trustees has made a determination that such construction is economically feasible. Such determination may require the owner/developer to prepay or guarantee future payment of System Development Fees, or other special arrangements as the City may determine necessary.

(b) It is the owner/developer's responsibility to finance, design and construct all local facilities. Such facilities shall be constructed in accordance with plans and specifications approved by the City Engineer, and in accordance with minimum standards adopted by the City. The owner/developer shall pay the actual cost of all such facilities.

(c) It is the responsibility of the customer or his or her builder to pay the actual cost and construct all customer service lines. Such service facilities shall be constructed in accordance with standards approved by the City, and shall be inspected by the City prior to use.

(d) After construction, the City will be responsible for the maintenance, operation and replacement of all regional and local facilities (except as provided during the warranty period). The individual customers shall be responsible for the maintenance and replacement of all customer facilities, with the exception of water meters and that part of each service line owned by the City, which shall become the property and responsibility of the City. The City shall not

be liable or responsible for inadequate water delivery, sewage treatment or interruption of any services brought about by circumstances beyond its control. (Ord. 334 §2.1, 2005)

Sec. 13-2-20. Limitation of liability.

(a) It is expressly stipulated that no claim for damages shall be made against the City by reason of the following: blockage in the system causing the backup of effluent; damage caused by "smoking" of lines to determine drainage connections to City lines; breakage of water or sewer main lines by City personnel; interruption of water or sewer service and the conditions resulting therefrom; breaking of any collection or service line, pipe, valve or meter by any employee of the City; failure of the water supply; shutting off or turning on water; making of connections or extensions; damage caused by water running or escaping from open or defective faucets; burst service lines and other facilities not owned by the City; damage to water heaters, boilers or other appliances resulting from shutting water off, or for turning it on, or from inadequate or sporadic pressures; or for doing anything to the systems of the City deemed necessary by the Board of Trustees or its agents.

(b) The City shall have no responsibility for notification to customers of any of the foregoing conditions. The City reserves the right to discontinue temporarily service to any property at any time for any reason deemed necessary or appropriate by the Board of Trustees. The City shall have the right to revoke service to any property for violations of this Chapter in accordance with the procedures set forth in this Chapter. (Ord. 334 §2.2, 2005)

Sec. 13-2-30. Ownership of facilities.

(a) All existing and future regional and local facilities connected with, and forming an integral part of, the City's system and accepted

for operation and maintenance pursuant to this Chapter shall become and are the property of the City, unless any contract with an owner or customer provides otherwise. Said ownership will remain valid whether the lines and treatment works are constructed, financed, paid for or otherwise acquired by the City, or by other persons.

(b) That portion of all existing or future services lines extending from the water meter or sewer main line to each unit or building for each customer that is connected with and forms an integral part of the City's water or sewer system shall become and is the property of the owner/customer. This principle shall not be changed by the fact that the City might construct, finance, pay for, repair, maintain or otherwise affect the customer's service line. The construction of, and connection of, any service line shall be done in compliance with this Chapter. The owner/customer's ownership of the service line shall not entitle the customer to make unauthorized uses of the City's systems once the service line has been connected to a City main line. All uses of the service line or any appurtenances thereto at any time after the initial connection to the City system shall be subject to this Chapter.

(c) Notwithstanding the above, all water meters and curb valves shall become and are the property of the City after acceptance of such meters and curb valves for maintenance by the City. Said ownership shall remain valid whether the meters and/or curb valves are installed, financed, paid for, repaired or maintained by another person or whether the meters and/or curb valves are located on privately owned and maintained service lines, in privately owned areas. (Ord. 334 §2.3, 2005)

Sec. 13-2-40. Right of entry.

The City Manager, inspector, agent, officers, employees of the City or other person so designated by the City Manager, bearing proper

credentials and identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this Chapter. The granting of right of entry by the owner and occupant is a condition precedent and a condition subsequent to the provision of public water, storm drainage and sewer service. If a water meter or curb valve is located on private property, the right of access to service and check these facilities is given to the City as a condition of providing utility service. (Ord. 334 §2.4, 2005)

Sec. 13-2-50. Modification, waiver and suspension of rules.

The Board of Trustees, or the City Manager acting on instructions of the Board of Trustees, shall have the sole authority to waive, suspend or modify this Chapter, and any such waiver, suspension or modification must be in writing, signed by the Board of Trustees or City Manager. Such waiver shall not be deemed an amendment of this Chapter. No waiver will be deemed a continuing waiver. (Ord. 334 §2.5, 2005)

ARTICLE 3

Conditions of Use of Utility Systems

Sec. 13-3-10. Eligible users.

Water, wastewater and drainage services will be furnished subject to this Chapter and only to property included within and subject to fees, charges and taxation by the City. It shall be incumbent upon the applicant to furnish satisfactory evidence whenever the City requests such evidence. Satisfactory evidence shall consist of a tax receipt or certification in lieu thereof received and signed by the County Treasurer. An exception to this rule requires a special service contract approved by the Board of Trustees. (Ord. 334 §3.1, 2005)

Sec. 13-3-20. Commitment to serve.

A request submitted to the City by a property owner for a confirmation or a commitment to serve the property with water, drainage and/or sewer services will be granted by the City only after such property owner has signed a System Development Fees Agreement as required by Section 13-5-50 of this Chapter. (Ord. 334 §3.2, 2005)

Sec. 13-3-30. Service outside City.

No service shall ever be provided to property outside of the City, except pursuant to the terms of a written agreement with the City approved by the Board of Trustees. Charges for furnishing service outside of the City shall be at the discretion of the Board of Trustees. Service outside the City limits will be no less than one and one-half (1½) and no more than two (2) times the cost of those same charges for which such property would be responsible if it were within the City limits. In every case where the City furnishes service to property outside the City, the City reserves the right to discontinue the service when, in the judgment of the Board of Trustees, it is in the best interest of the City to do so. An exception to this rule requires specific reference in a service contract approved by the Board of Trustees. (Ord. 334 §3.3, 2005)

Sec. 13-3-40. Application for service.

(a) An application for service must be filed with the City on forms provided by the City and accompanied by appropriate fees prior to any action to connect to the system. Only upon authorized approval of the application and a receipt therefor may a connection to the system be made. The location of the water meter and the remote reading device (if required) shall be indicated on all applications for service.

(b) If a fire protection water sprinkler system is to be used, a plan of the system is to accompany the application and is subject to the

approval of the City. All fire sprinkler systems shall meet NFPA requirements and additionally shall meet the requirements of all applicable fire protection, City, County and State building and fire protection codes. If a water sprinkler system for lawn irrigation is to be used, it must be on a metered service.

(c) No taps will be permitted or made during nonbusiness hours without specific, written approval of the City Manager.

(d) All information requested on the tap application form must be completed, and a diagram of the meter and tap location preference shall be provided. Should any information disclosed on the application prove at any time to be false, or should the applicant omit any information, the City shall have the right to reassess the System Development Fees originally charged at the rate current to the discovery by the City of the false or omitted information, disconnect the service in question, back-charge the property in question for service fees that may be due and owing, and/or charge any other or additional fee or penalty specified in this Chapter. Any reassessment shall be due and payable, together with any penalties or other additional fees charged, and interest at the maximum legal rate on the entire balance, upon and from the date of the original application. (Ord. 334 §3.4, 2005; Ord. 347 §1, 2008)

Sec. 13-3-50. Denial of application.

The City reserves the exclusive right to deny application for service when, in the opinion of the Board of Trustees, the service applied for would create an excessive seasonal, or other, demand on the facilities. Denial may also be based upon an unresolved obligation between the City and the applicant, inadequate documentation of easements for main lines that service the property, or any other reason as determined by the City Manager and/or the Board of Trustees. (Ord. 334 §3.5, 2005)

Sec. 13-3-60. Cancellation of application.

The City reserves the right to revoke any prior approval of an application before service has been provided and, thereafter, for any violation of this Chapter. (Ord. 334 §3.6, 2005)

Sec. 13-3-70. Moved or destroyed buildings.

When buildings are moved or destroyed, the original tap authorization shall terminate, and no credit shall be authorized for System Development Fees paid previously with respect to said building. However, the original tap shall remain in good standing, provided that uninterrupted payment of the City's minimum service charge (as the same may be amended from time to time) is made. If payment of the minimum service charge ceases for any reason, said tap shall be in violation of this Chapter, and the tap shall be revoked. Nonpayment within thirty (30) days of the billing shall be considered cessation of payment of the minimum service charge. (Ord. 334 §3.7, 2005)

Sec. 13-3-80. Change in customer's equipment, service or use of property.

(a) No change in the customer's equipment, service or use of property served shall be made without the prior notification of and approval by the City. Any such change which, in the opinion of the City, will increase the burden placed on the City's utility systems by the customer shall require a redetermination of the System Development Fees and monthly service charge and a payment by the customer of any additional System Development Fees and monthly service charge resulting from the redetermination.

(b) Any violation of Section 13-3-90 below shall result in the assessment of an unauthorized connection fee, and the City shall take those steps authorized by this Chapter and state law regarding the collection of said fees.

(c) Any customer believed to have changed the equipment, service or use of his or her property in violation of this Section shall be notified of such belief by the City, shall be notified of the City's intent to assess any additional System Development Fees, service or unauthorized connection fees and shall be afforded ten (10) days in which to respond to the City's notice. Failure to respond as required herein within the ten-day period shall be deemed to establish the City's belief concerning the nature and extent of the change, and such additional System Development Fees, service and unauthorized connection fees as are deemed appropriate by the City shall be assessed against the property in question and shall be collected as provided under this Chapter and state law. To defer the collection of said fees, and as a prerequisite to the right to hearing as provided for and described in Article 7 of this Chapter, any response by the customer must, in addition to being provided in ten (10) days, include permission to make such inspection of the property in question as the City Manager deems necessary to clearly establish the nature of equipment, service and use of the property in question. (Ord. 334 §3.8, 2005; Ord. 347 §1, 2008)

Sec. 13-3-90. Unauthorized connections and fees.

No person shall be allowed to connect to the sewer or water systems, or to enlarge or otherwise change equipment, service or use of property without prior payment of System Development Fees, approval of an application for service, and adequate supervision and inspection of the taps by City employees. Any such connection, enlargement or change shall be deemed an unauthorized connection. Upon the discovery of any unauthorized connections, the then-current System Development Fees shall become immediately due and payable, and the property shall automatically be assessed an unauthorized connection fee. The unauthorized

connection fee is an amount equal to twice the then-current System Development Fees that would be due for such property. The City shall send written notice to the owner of the property benefited by such connections stating that an unauthorized connection has been made between the owner's property and the City facilities. The owner shall then have ten (10) days from the date of the notice to pay the then-current System Development Fees. If that fee is paid within the ten-day period, the City shall waive the unauthorized connection fee. In the event the then-current System Development Fees are not paid within the ten-day period, a notice of revocation of service shall be sent and service shall be disconnected pursuant to Section 13-3-110 below. Once discontinued, service may be returned to the property only upon receipt by the City of both the unauthorized connection fee and the then-current System Development Fees, and any turn-on/turn-off fees, service charges or any other charges that may be due, the City also reserves such rights of foreclosure as may be provided by law for the collection of unpaid fees and charges of the City. (Ord. 334 §3.9, 2005)

Sec. 13-3-100. Revocation of service.

(a) Service may be revocable by the City upon nonpayment of any valid fees or charges owing to the City. In the event of nonpayment, the customer shall be given not less than ten (10) days' advance notice in writing of the revocation, which notice shall set forth:

- (1) The reason for the revocation;
- (2) That the customer has the right to contact the City, and the manner in which the City may be contacted for the purpose of resolving the obligations; and
- (3) That there exists an opportunity for a hearing in accordance with Article 7 of this Chapter.

(b) If the obligation is not resolved within the time prescribed, service to the property shall be revoked by blocking or disconnecting the appropriate line serving the property. The cost of disconnection or blockage shall be assessed to the customer. The customer may request a hearing in accordance with Article 7 of this Chapter.

(c) If payment of the outstanding obligation or a request for a hearing with the accompanying deposit is not received by the City within ten (10) days of the date of mailing of the revocation notice, the City Manager shall disconnect the service and the customer shall be assessed the cost of the disconnection. Deposit for service, if any, shall be applied against the outstanding obligation. (Ord. 334 §3.10, 2005)

Sec. 13-3-110. Revocation of tap rights.

The right to connect to the City's system and receive services shall be revocable by the City upon nonpayment of any City fees owing to the City and remaining unpaid for a period of twelve (12) months, and whether or not the customer owning the right to connect has actually connected to the City's system. Such revocations shall be conducted in accordance with Section 13-3-100 above. If the right to connect to the City system is revoked, the customer may reacquire such tap rights only by reapplying for service in accordance with Section 13-3-40 above and after paying all fees due and owing the City. (Ord. 334 §3.11, 2005)

Sec. 13-3-120. Turn-on/turn-off of service.

Any turn-on or turn-off of water or sewer service through a curb valve on a service line that has been connected to the City's water or sewer system pursuant to a request issued to the City shall be performed only by City personnel, regardless of the ownership of the curb valve or service line and regardless of the circumstances

respecting the turn-on or turn-off. The City shall assess a single turn-off/turn-on charge in an amount as set forth in the fee schedule for any such turn-on and turn-off performed, except when the service is performed for customers requiring maintenance to their service line, in which case there shall be no charge. (Ord. 334 §3.12, 2005; Ord. 347 §1, 2008)

Sec. 13-3-130. Failure to connect.

The customer's right to connect to a City system shall terminate and any tap fee paid shall be forfeited if the tap is not connected to the City's facilities within twelve (12) months of the payment of the tap fees unless:

- (1) The property owner begins to pay, and continues to pay, the standby fee imposed for that tap for each and every month, commencing with the first billing cycle after the twelve-month period has passed; and
- (2) The property owner pays the turn-on/turn-off fee provided by and pursuant to Section 13-3-120 above, if applicable. (Ord. 334 §3.13, 2005; Ord. 347 §1, 2008)

ARTICLE 4

Water, Storm Drainage and Sewer Systems

Sec. 13-4-10. Unauthorized tampering with systems.

(a) No unauthorized person shall uncover, use, alter, disturb, make any connection with or opening onto, use, alter or disturb the water, storm drainage or sewer system without first obtaining a written permit from the City. Unauthorized uses of the City's systems include, but are not limited to, an unauthorized turn-on or

turn-off of water, storm drainage or sewer service, or tampering or in any way modifying any meter, even though the same may be performed on a privately owned and maintained service line.

(b) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any portion of the City's system.

(c) Any person who violates the provisions of this Section shall be prosecuted to the full extent of state law.

(d) Any person violating any of the provisions of this Chapter shall become liable to the City for any expense, loss or damage occasioned by reason of such violation; and, upon nonpayment thereof, at the demand of the City Manager, shall be assessed a penalty in an amount set forth in the City's fee schedule. Said penalty shall be a lien upon the violator's property, as allowed by Section 32-1-1001, C.R.S., or a lien upon the property concerning which the violator was providing services at the time of the violation in question, whichever the City Manager deems appropriate. (Ord. 334 §4.1, 2005)

Sec. 13-4-20. Water systems.

(a) The City's potable water system has been planned and constructed to provide potable water for conventional domestic and commercial uses and fire protection and irrigation water for single-family residential uses. Persons wanting to use the water system for an industrial or high-demand commercial water supply, which could be expected to require large quantities of water or unusual demand rates, shall be required to submit demand data as to water use before a permit will be issued. Said permit may contain use limitations as determined necessary by the Board of Trustees.



(b) Cross-connection/dual-supply.

(1) Water from the City's potable system and water from any other source shall be distributed through systems entirely independent of each other, and cross-connection between such supplies is prohibited. A *cross-connection* is defined as any physical arrangement whereby the City's water supply is connected, directly or indirectly, with any nonpotable or unapproved water supply system, sewer drain, well, conduit, pool, reservoir, plumbing fixture or other device which contains, or may contain, any contaminated water, liquid or other waste of unknown, nonpotable or unsafe quality that could impart a contaminant to the City's water supply as a result of backflow. Where a potential for backflow is present, an acceptable protective device or system shall be installed to prevent its occurrence.

(2) All automatic lawn sprinkler systems shall be equipped with an approved vacuum breaker installation.

(3) All plumbing installations shall be designed and installed in conformity with the latest edition of the "Manual, Cross-Connection Control," published by the Colorado Department of Public Health and Environment.

(4) All backflow preventer installations shall be as approved by the City. The customer shall install, operate, test and maintain the backflow preventers. The customer shall provide the City with yearly, certified test results of the backflow preventer. Tests shall be made on the device at a minimum of one (1) per year, or as determined by the City. (Ord. 334 §4.2, 2005)

Sec. 13-4-30. Sewer system.

(a) The sanitary sewer system is for the disposal of water contaminated by biodegradable wastes. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, surface drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to the City's sanitary sewer system. In order to protect the City's sewage system from damage, destruction, deterioration, misuse or malfunction and to guard against health hazards and the creation of public nuisance, the regulations contained in this Article shall apply relative to the discharge of sewage containing deleterious wastes.

(b) A septic facility may not be utilized within the City service area unless a special permit is obtained from the City.

(c) The storm sewer system is to be used for the transmission of natural surface water and uncontaminated groundwater only. No pollutants, trash or other deleterious substances shall be placed in the City's storm sewer systems, or area tributary to this system, when entry to the system is likely. (Ord. 334 §4.3, 2005)

Sec. 13-4-40. Specially regulated wastes.

(a) Industrial wastes. No person shall discharge or cause to be discharged any industrial waste of any type into the City's sanitary sewer or storm sewer system unless written permission is received from the City.

(b) Inflow/infiltration. No person shall discharge or cause to be discharged into the sanitary sewer of the City storm water drainage from the ground surface, roof leaders, catch basins, or any other source, or subsurface drainage or groundwater.

(c) Other wastes. Industrial cooling water, unpolluted process waters, bakery/restaurant wastes, car washing wastes, swimming pool drainage and floor drainage from enclosed and covered areas may be connected to the sanitary sewerage system only by a special permit from the City. A permit for such purpose will be considered by the City based upon an application containing the following general information:

- (1) Name and address of the owner.
- (2) Location of the property for which the request is made.
- (3) Description of the facility or operation requested for connection.
- (4) Estimated quantities and qualities of the waste to be discharged, including maximum rates.
- (5) Plans and specifications of related waste-generating processes and any pre-treatment processes.

(d) The City may issue permits for the connections conditioned upon the following, but not limited to:

- (1) The construction of flow-measuring and/or sampling devices.
- (2) The construction of valves or gates to stop flows on an emergency basis.
- (3) The construction of grease, oil and sand traps, or other pretreatment facilities. (Ord. 334 §4.3, 2005; Ord. 347 §1, 2008)

Sec. 13-4-50. Prohibited wastes.

(a) Toxic or nonbiodegradable waste or any wastes which could make the effluent not within state standards after providing conventional

treatment shall not be discharged into the sewer systems. No drain accepting discharge from vehicle wash racks, filling stations, restaurants or other building sewers as specified by the City shall be connected to any sewer service line unless the discharge first passes through an acceptable grease, sand or oil interceptor.

(b) Except as provided herein, no person shall discharge, or cause to be discharged, any of the following described waters or wastes to any public sewer:

- (1) Any liquid or vapor having temperatures higher than one hundred four (104) degrees Fahrenheit.
- (2) Any water or waste which may contain more than one hundred (100) ppm by weight of animal or vegetable fat, oil or grease.
- (3) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid, gas, oil or grease.
- (4) Any garbage that has not been properly shredded to less than one-half (½) inch in the largest dimension.
- (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper and normal operation of the sewage works.
- (6) Any waters or wastes having pH lower than 5.0 or higher than 9.0, or having any other corrosive or toxic property capable of causing damage or hazard to structures, equipment or personnel of the sewage works.

(7) Any water or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans, animals or fish, or create any hazard in the receiving waters of the sewage treatment plant effluent.

(8) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

(9) Any noxious substances or malodorous waste, waters, gases or substance capable of creating a public nuisance, either in the public sewer or at the sewage treatment plant.

(10) A five-day B.O.D. concentration greater than three hundred (300) ppm.

(11) A concentration of more than three hundred (300) ppm of suspended solids.

(12) Concentrated wastes from septic tanks and portable sanitary devices.

(13) A peak flow rate greater than five (5) times the average flow rate.

(14) Any chemicals having a twenty-four-hour proportionate composite sample concentration at the point of discharge in excess of the following:

Cadmium	0.1 mg/l
Chromium	5.0 mg/l
Copper	3.0 mg/l
Cyanides	2.0 mg/l
Iron	15.0 mg/l
Phenol	10.0 mg/l
H ₂ S (Hydrogen Sulfide)	1.0 mg/l
Zinc	2.0 mg/l

(Ord. 334 §4.3, 2005)

Sec. 13-4-60. Pretreatment.

Where necessary, and the City determinations shall be final, the customer shall provide, at his or her expense, such preliminary treatment as may be necessary. Where preliminary treatment facilities are provided for any waste or water, they shall meet with the approval of the City for adequacy of design and, once built, shall be maintained continuously in satisfactory and effective operation by the customer. When required by the City, the customer of any property served by a service line carrying industrial wastes shall install a suitable control manhole or monitoring point in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole or monitoring point shall be accessible, safely located and constructed in accordance with plans and specifications approved by the City. The manhole or monitoring point shall be installed and maintained by the customer at his or her expense. (Ord. 334 §4.3, 2005)

Sec. 13-4-70. Sump pumps and other illegal devices.

No plumbing fixture, device, construction or plumbing system shall be installed within any building or improvement which will provide a connection between the sanitary sewer system of the City, directly or indirectly, or with a sewer service line for the purpose of draining ground or surface waters into the sanitary sewer system of the City. No physical connection shall be permitted whereby a sewer service line is connected to a sump pump or other facility in such a manner that, through the manipulation of valves, because of lack of back pressure valves, or because of any other arrangement, it is possible to drain flood, overflow, drain, storm or groundwater directly or indirectly into the sewer system of the City. Any person having connected, or permitting to be connected, such a forbidden system to a service line or the main sewer line of the City may be summarily ordered

to disconnect such forbidden device or pumping system at his or her cost; and, upon failure to do so, the City may forthwith disconnect any sewer line from the property containing such a forbidden device or pumping system at the mainline sewer of the City, the cost of which shall be a lien and charge against the property involved. No sewer service line shall thereafter be connected to the sewer system of the City without payment of all disconnection fees to the City and costs and expenses of the City relative thereto, and positive proof that such improper illegal connection or device has been removed and will not thereafter be reconnected to the sanitary sewer system of the City. (Ord. 334 §4.3, 2005)

Sec. 13-4-80. Construction and cleaning of grease, oil and sand traps.

Grease, oil and sand interceptors shall be provided at the sole cost and expense of the customer when, in the opinion of the City Manager, they are necessary for the proper handling of liquid wastes containing grease, oil, etc., in excessive amounts, or any flammable wastes, sand or other harmful ingredients. All interceptors shall be located as to be readily available and accessible for cleaning and inspection. Grease and oil interceptors shall be in an accessible location for maintenance and inspection and shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be watertight and, if necessary as determined by the City, gastight and vented. Where installed, all grease, oil and sand interceptors shall be maintained by the customer at his or her expense, in continually efficient operation at all times. The City requires a monthly or periodic cleaning and pumping of any grease traps as approved by the City Manager. Periodic inspections shall be made of sand and grease traps and interceptors, and, in the event the customer is in violation of this Chapter, the customer shall be liable for payment of a penalty in an amount as set forth in the City's fee schedule. (Ord. 334 §4.3, 2005)

Sec. 13-4-90. Swimming pools.

No public or private swimming pool shall be connected to the sewer system without first obtaining a special permit from the City. Such permit shall define and specify the hours during which water may be discharged from such pools into the sewer system and prescribe the fees and charges thereof. (Ord. 334 §4.3, 2005)

Sec. 13-4-100. Responsibilities of customer.

(a) Water service lines.

(1) Each customer shall be responsible for maintaining the entire length of his or her water service line downstream of the meter pit. The customer shall repair damage or breaks in the water service line within seventy-two (72) hours from the time of notification of such condition by the City. If satisfactory progress toward repairing the leak has not been made by the time specified, the City shall have the authority to repair, or have repaired, the lines, and shall charge the customer all resulting costs thereof. The City shall be entitled to place a lien against the property of such customer or owner securing payment of such costs.

(2) The water meter shall, after installation, inspection and approval, become the property of the City, and shall be maintained by the City. The customer shall promptly notify the City if he or she believes there is any inaccuracy in meter readings.

(b) Sewer service lines. Each customer shall be responsible for maintaining the entire length of his or her sewer service line downstream from the meter pit. Excess infiltration leaks or breaks in the sewer service lines shall be repaired by the customer within seventy-two (72) hours from the time of notification of such condition by the City. If satisfactory progress toward repairing the leak has not been made by

the time specified, the City shall have the authority to repair, or have repaired, the lines, and shall charge the customer all resulting costs thereof. The City shall be entitled to place a lien against the property of such customer or owner securing payment of such costs. (Ord. 334 §4.4, 2005; Ord. 347 §1, 2008)

Sec. 13-4-110. Enforcement.

(a) The responsibility of cleaning and maintaining all grease interceptors and sand and oil traps shall be the customer's and/or owner's. Grease interceptors and sand and oil traps shall be inspected periodically by the City's maintenance contractor, and, if not properly maintained, the City will initiate procedures to obtain compliance with this Chapter.

(b) The charge for these inspections to the customer and/or owner shall be a direct pass-on of the expense to the City and shall be billed directly by the City for all costs incurred by the City in inspecting the property.

(c) Discharge of sewage in any manner in violation of this Chapter is hereby declared a public nuisance and may be corrected or abated as directed by the City.

(d) Whenever a discharge of sewage or the operation of a grease interceptor or sand or oil trap is in violation of the provisions of this Chapter or otherwise causes or threatens to cause a condition of contamination, pollution or nuisance, the City will issue a written notice to correct the practice within seventy-two (72) hours. If the practice is not corrected within such time, the City may notify the Colorado Department of Public Health and Environment and turn off water service or effect disconnection of the sanitary sewage service line from the City's system, until such time as the City has received adequate assurances that any and all violations of this Chapter will cease and will not

occur in the future. In addition, all of the costs of the aforementioned proceedings shall be charged against the property and, until paid, shall constitute a perpetual lien against the property.

(e) When a discharge of waste causes an obstruction, damage or any other impairment to the City facilities, the City may assess a charge against the customer and/or owner for the work required to clean or repair the facility and add such charge to the customer's and/or owner's sewer service charge. The City shall have such remedies for the collection of such costs as it has for the collection of sewer service charges, and such costs, until paid, shall constitute a perpetual lien against the property.

(f) Any person who intentionally or negligently violates any provisions of this Chapter or conditions set forth in permits duly issued shall be liable civilly to the City. The City may petition the District Court to impose, assess and recover such sums.

(g) In order to effect its powers, the City may enter upon private property for the purpose of inspection and maintenance of sanitary and waste disposal facilities and may terminate service to property in which a violation of any of this Chapter is found to exist. Prior to termination of service, the City shall notify, in writing, the owner and tenant, if any, of such property that service is intended to be so terminated. Such notice shall be mailed to the customer at the address of record, and a copy shall be delivered to the owner and tenant or posted conspicuously on the property. The notice shall state the date of proposed termination of service and the reasons therefor. In the event of an emergency, the City may terminate service without prior notice; provided, however, that subsequent notice of the termination shall be delivered as set forth herein.

(h) The prohibitions against unauthorized discharge of wastes proscribed in this Section include the dumping or pumping of wastes directly into the City's manholes without the prior written consent of the City Manager. (Ord. 334 §4.5, 2005; Ord. 347 §1, 2008)

ARTICLE 5

Service Extension Policies

Sec. 13-5-10. General policy.

(a) New service will be furnished only after the following conditions are met:

(1) The proposed new service area or customer is included within the City limits, or the Board of Trustees has furnished a written specific exemption pursuant to the terms of a written agreement.

(2) Regional facilities needed to serve the area or customer have been provided by the City.

(3) All local facilities needed to serve the area or customer are in place and have had design and construction approval by the City Engineer; and all costs therefor paid by the developer (or customer).

(4) The applicable permits have been applied for and approved and all required fees paid.

(5) The customer's service lines have been installed at the customer's expense, in accordance with City standards and construction approved by the City Manager.

(b) No privately owned wells or other water supply systems, septic tanks or other individual sewage disposal system, or on-site drainage

detention facilities shall be planned or constructed within the boundaries of the City without the express written consent of the City. (Ord. 334 §5.1, 2005)

Sec. 13-5-20. Regional facilities.

(a) Developers desiring service to new areas within the City shall keep the City informed and provide adequate lead time to permit the reasonable construction of any needed regional facilities. The City shall require financial commitments from developers in order to incur the expense of planning and constructing required regional facilities.

(b) Subject to the availability of funds, a determination of economic feasibility by the Board of Trustees and a determination by the Board of Trustees that the best interests of the City are thereby served, the City will construct, on such terms and conditions it deems appropriate, the water, sewer and drainage facilities as contemplated in the City's Master Plans. (Ord. 334 §5.2, 2005)

Sec. 13-5-30. Local facilities.

(a) Ownership.

(1) Unless specifically accepted by the Board of Trustees in writing, all water, drainage and sewer pipelines located within the City shall be owned by the City, including those to which there may be a right to refund.

(2) Developers or owners who have completed construction of public roads, water, sewer or drainage lines shall deed them to the City, free and clear of all liens and encumbrances; furnish a bond in a form and amount previously approved by the City, to cover all maintenance, corrections and replacements required for one (1) year from the date of acceptance of the lines by the

City; and provide a summary of the actual original cost of all deeded facilities, complete with verified invoices. At the end of the one-year maintenance period, the City, upon application of the developer or owner, shall conduct a final inspection of the lines. When all items are completed to the satisfaction of the City Manager, the City shall accept the lines for ownership, operation and maintenance responsibilities.

(3) In certain locations, local facilities have previously been constructed by the City or other developers (under a rebate agreement). In such cases, developers or owners will be required to reimburse the City for applicable costs prior to any connection or use.

(b) Pipeline sizing. Water distribution pipelines, collection sewer pipelines and storm drainage pipelines shall be sized adequately to serve the development tract for which they are designed. All pipeline systems shall be sized to accommodate the intent of the Master Plans, or as determined by the City Engineer. Where the distribution or collection lines also have a transmission function serving areas outside of the subject tract, as determined by the City Engineer, and then the City may require that the lines be oversized. In such case, the City will contribute to the actual cost an amount equal to the extra cost of oversizing. In no case shall water or sewer mains of eight-inch diameter or less, or storm sewer pipelines eighteen (18) inches or less, be considered as having a transmission function.

(c) Preliminary design procedures.

(1) Water distribution, collection, sewer and storm drainage planning may be accomplished by the City or by an engineer registered in Colorado, at the developer's option. All preliminary plans and final designs must

be prepared by, or reviewed by the City Engineer and approved by the Board of Trustees. In any case, the City Engineer or Inspector shall perform prescribed inspection services.

(2) Any developer desiring to have water and/or sewer lines (local facilities) extended shall notify the City Manager. Normally an engineering pre-design report will be required. This report should address the benefited property owners, the size and location of proposed pipelines, and preliminary cost estimate. The developer's engineer or the City Engineer, at the developer's option, can prepare this report. In either case, the developer is responsible for the cost of preparation and review.

(3) If rebate provisions are contemplated, such arrangements shall be outlined in the report. The benefited properties and proposed rebate provisions and allocations should be included.

(4) After preliminary review, the developer may proceed with final design normally; during the preliminary phase, general conformity to the Master Plans will be reviewed and oversize requirements, if any, established. The developer is responsible for obtaining these approvals as well as resolving any differences in design requirements imposed by the City.

(d) Easements/rights-of-way.

(1) All water and sewer mains should be installed in trenches containing no other conduits. The line and depth of such installations shall be as approved by the City Engineer. The topography and alignment of such rights-of-way shall be suitable for main installation as determined by the City Engineer.

(2) Preliminary and final planning shall be such that adequate space and easement reservations shall be made available permanently to the City without charge, as approved by the City Engineer.

(e) Final design.

(1) The extension application and final design documents will be furnished to the City Engineer for review and thence to the Board of Trustees for approval.

(2) The submittal shall include construction drawings, specifications and other contract documents. These documents shall be prepared by the City Engineer or registered engineer acceptable to the City. In all cases, the contract documents must be reviewed and approved by the City. Plan and profile drawings shall be on a horizontal scale of 1" = 50' (larger scales may be accepted, as determined by the City Engineer). All elevations must be USGS datum. Where practical, elevations of existing City facilities shall be field-verified in the final design. Designs and specifications must include the provisions of Appendix B, Service Line Standards, a copy of which is available at the City Manager's office, with other detailed provisions as required by good engineering practice, all subject to the Board of Trustees' approval.

(3) Designs for water, sewer and drainage main extensions shall be submitted for review at least thirty (30) days before approval is expected.

(4) Plans and specifications shall be submitted to the City one (1) week (seven [7] days) prior to each reading.

(5) Plans, specifications and easements submitted for Board of Trustees approval must be complete and meet with the approval of the City Engineer.

(6) Design approvals are valid for twelve (12) months from the date of Board of Trustees approval unless otherwise specifically noted in the approval. If construction is not substantially complete by that time, resubmittal of the plans may be required and new construction may not be initiated without the City Manager's specific approval.

(f) Construction phase.

(1) After all approvals have been granted, the developer must have the extensions constructed in a strict accordance with the approved design and inspected by the City Engineer or Inspector.

(2) The City Engineer or Inspector will inspect to assure good quality construction, installation materials and practices in general conformity with the approved plans and specifications. The City Engineer or Inspector will not handle, or be responsible for, other construction phase-related services (e.g., staking easement and/or line locations, measuring quantities, preparing pay estimates and administrative or management-type relations with the contractor), unless the City Engineer is used for design or unless a specific contract for such services is executed with the City. In no case shall the City or the City Engineer be responsible for job safety.

(3) The developer shall schedule a preconstruction conference on the job site with the City Engineer or Inspector prior to construction. The developer shall notify the City five (5) working days prior to beginning construction, and thereafter keep the City Engineer or Inspector informed of the construction schedule. No work may be covered, hidden or completed without the presence and approval of the City Engineer or Inspector. Any City Engineer or Inspector time or expense caused by the contractor

failing to work according to the proposed schedule shall be charged to the project as part of the actual cost.

(4) Construction staking shall be completed prior to the installation of the water, sewer or drainage lines. All staking shall be maintained throughout the installation of the water, sewer and drainage lines. Staking shall include easement or right-of-way stakes and cut/offset stakes (fifty-foot maximum spacing unless otherwise approved).

(g) As-built drawings.

(1) Accurate as-built drawings (sealed by the design engineer), showing adequate ties to physical facilities, must be provided at the completion of work by the owner's or developer's engineer. The City or its Engineer shall be provided with a reproducible set of as-built drawings on Mylar. These may be the original tracings or photographic reproducible. If the base drawings have been prepared by CAD methods, then a disc containing all the as-built information shall be furnished.

(2) As-built drawings shall furnish information in a manner similar to the approved standard drawing "Typical As-Built Information" contained in Appendix B, Service Line Standards, a copy of which is available at the City Manager's office.

(h) Maintenance. The City operates and maintains all water, drainage and sewer mains within the City which have been completed, accepted and deeded to the City, except that the developer shall provide for a one-year warranty period, beginning at the time of final acceptance by the City. (Ord. 334 §5.3, 2005; Ord. 347 §1, 2008)

Sec. 13-5-40. Permits required.

(a) The right to take and use water distributed and the right to discharge sanitary sewage or storm sewage through the facilities of the City shall exist only under permit, and no physical connection may be made or modified to any such facilities or to any privately or publicly owned extension hereof for any purpose unless a permit has first been obtained authorizing the use for which such a connection is to be made.

(b) Notwithstanding the issuance of a permit, the City reserves the full power and authority to determine all matters in connection with the control and use of water from the water system.

(c) Separate permits.

(1) No water user in or upon any premises to which water is supplied under a permit for such premises shall supply or allow water to be supplied for use on any other premises unless a permit for use on such other premises has been procured. Nor shall any sewer user similarly allow discharge of wastes generated from offsite property to a sewer connection located on his or her property.

(2) A permit is required for each and every building using water and/or discharging sewage.

(3) The water and sewer service lines to any structure served by the City must be independent of the service to any other structure, except where the structures involved comprise an undivided unit with no potential for separate ownership. Individual water service and meters will be required for each individual owner, unless the Board of Trustees has granted specific exemption.

(d) Increased service for existing customers.

(1) Any water customer or owner expanding his or her buildings or otherwise increasing water demands must apply for a modified permit, whether or not an increase in service pipe size is determined to be required.

(2) Any sewer customer or owner expanding his or her building, or otherwise increasing sewage flows so that the number of equivalent units will be increased, must apply for a modified permit, whether or not the actual size is increased.

(3) In these cases, the owner shall pay incremental system development fees at the rate in effect at the time the modified permit is issued.

(e) Transfer of permits.

(1) Permits attach to the designated premises only. They are not affected by changes in the ownership of the licensed premises and are usable only in accordance with the terms of the permit.

(2) Neither permits nor the associated system development fees are transferable to other properties. (Ord. 334 §5.4, 2005)

Sec. 13-5-50. Permit issuance.

A permit to take and use water from the City's system and/or permit to discharge sanitary or storm sewage to the City's systems may only be issued under the following conditions:

(1) Application. The applicant or his or her agent shall submit a signed, written application for service on a form supplied by

the City and presented to the Board of Trustees or its authorized agent and shall contain the following information:

a. A description of the premises to be served under the permit by reference to land survey, by designation of lot and block or by other legal description adequate to define the area to be served by convenient references.

b. A description of the building or buildings to be constructed and their purpose. If the buildings are to be used for commercial or industrial purposes (any use other than residential), then the applicant shall furnish an estimate of expected peak and average flow loads, with calculations and information as required by the City Engineer.

c. An acknowledgement and agreement by the applicant that uses under the permit must be as limited and defined by applicable law and this Code.

d. If a use is proposed which could result in high rate service demands, then the City Manager may require that the applicant submit additional information regarding demands or load rates.

e. A copy of the system development fees agreement applicable to the property to be served and evidence that no uncured deficiencies are outstanding pursuant to the terms of such system development fees agreement.

(2) Payment of capital fees. Prior payment of:

a. Water and sewer connection ("tap") fees which are administratively set to

cover the cost of service line inspection and tapping by the City, and for any service line installation or materials furnished by the City.

b. Standard City water and sewer tap fees, system development fees for the appropriate number of individual buildings or structures. Normally, simultaneous payment for all applicable City fees, including potable water, storm drainage and sanitary sewage, will be required.

(3) System development fees agreement. To assure the receipt of water tap fees, sewer tap fees, and system development fees on a predetermined schedule which may be necessary for the City to secure funding for the construction of its regional facilities, the City may require that any owner and/or holder of an interest in more than one (1) acre of real property within the City service area enter into a system development fees purchase agreement with the City prior to the issuance of any permits to connect to the City's facilities. As specified in Section 13-3-20 herein, the City will not issue confirmation of a commitment to serve property with water, irrigation water and/or sewer services unless a system development fees purchase agreement is signed pursuant to this Section.

(4) Pre-purchase of system development fees. A developer or owner may pre-purchase system development fees pursuant to an agreement with the City. The rights derived by payment of such fees shall be as set forth in the agreement and as stated on the certificate. (Ord. 334 §5.5, 2005)

Sec. 13-5-60. Fire protection service.

(a) A permit to take and use water from the water system for private fire protection service is granted only upon the following conditions:

(1) The applicant shall have secured a permit for water service from the City.

(2) The applicant shall have specified, with particularity, the fire protection facilities for which water service is desired.

(3) The applicant shall have executed an agreement adequate to control the use of the fire protection facilities to assure that they will not be used for any purpose other than extinguishing hostile or unfriendly fires, unless specifically exempted by the Board of Trustees. Each direct fire protection service line shall be equipped with an approved flow detection device. These facilities are subject to inspection at the City's discretion. The applicant shall have obtained all approvals, written or otherwise, as required by the City.

(4) If the water is to be supplied for fire protection through the same service line through which water is supplied for other purposes, the fire protection facilities shall be so installed as to prevent the use of water through such facilities for any purpose other than fighting hostile or unfriendly fires.

(5) The City assumes no obligation for adequacy of private fire protection service.

(b) The only use for which water may be taken from fire protection facilities under permit is to extinguish hostile or unfriendly fires. Any other use of water from such facilities shall be deemed as unauthorized use of water for which a permit for fire protection service may be suspended or revoked. (Ord. 334 §5.6, 2005)

Sec. 13-5-70. Service lines and connections.

(a) Cost responsibilities.

(1) All costs and expenses incident to the installation and connection of sewer and water service lines (i.e., customer facilities), including the cost of any meters, shall be borne by the customer. The customer shall indemnify the City for any loss or damage

that may directly, or indirectly, be occasioned by the installation or use of the sewer and water service line.

(2) Each customer shall own and be responsible for the construction, maintenance and replacement of water and sewer service lines from the curb valve and box to their building with the exception of the water meter. Installation of the water meter shall be a cost of the customer; however, after acceptance of water service line construction, ownership of the water meter, as well as calibration and maintenance responsibilities and replacement costs shall be assumed by the City.

(3) Each customer shall own and be responsible for the construction, maintenance and replacement of sewer service lines from the City sewer main tap to his or her building.

(b) Design – construction.

(1) All service lines shall be constructed in accordance with the minimum standards as set forth in Appendix B, Service Line Standards, a copy of which is available at the City Manager's office. All water services installed hereafter shall be equipped with a customer meter.

(2) Service lines shall not be used until inspected and approved by the City Manager. The cost for this inspection service is included in the tapping connection fees as set forth in Appendix A, Schedule of Rates and Fees, a copy of which is available at the City Manager's office.

(c) Pressure-regulating and relief valves.

(1) All water service lines shall be equipped with a line pressure-regulating valve, except in areas specifically exempted

by the City Engineer. Pressure-regulating valves shall be upstream of all uses. Installation in the meter pit is acceptable to the City if the pit and piping are designed to permit convenient servicing of the meter. The pressure-regulating valve shall be set for a downstream pressure not exceeding eighty (80) psi.

(2) A water pressure relief valve shall be installed on the plumbing of every customer, normally at the hot water tank. The valve shall be provided with a discharge line to a drain in any areas where discharge could cause damage.

(d) Individual service lines.

(1) Each individual commercial structure hereinafter connected shall pay for an individual water and/or sewer tap and install separate service lines for each commercial structure.

(2) Each individual residential structure hereinafter connected shall pay for an individual water and/or sewer tap and install separate service lines for each residential structure. Any variance from this requirement must be authorized by obtaining written approval of the Board of Trustees. (Ord. 334 §5.7, 2005; Ord. 347 §1, 2008)

ARTICLE 6

Rates and Charges

Sec. 13-6-10. General.

The Board of Trustees has established water system development fees, sewer system development fees, storm drainage system development fees, tapping fees, service charges and other fee schedules. The current fee rates are reflected in Appendix A, Schedule of Rates and

Fees, a copy of which is available at the City Manager's office. These fees may be increased or decreased by the Board of Trustees at any time without notice. (Ord. 334 §6.1, 2005; Ord. 347 §1, 2008)

Sec. 13-6-20. Rebate agreements.

In circumstances where a developer is required to construct and invest in facilities which can partially benefit future development, the City may enter into rebate agreements, payable from fees collected from future developers or customers, in the circumstances described below. Rebate agreement forms are available from the City.

(1) Adjacent developments.

a. When a developer is required to install distribution/collection mains in a street or easement bordering his or her tract – so that future development on the other side of the street or easement can directly obtain service through the subject lines.

b. The rebate amount will be assigned to the opposite side from the developer or owner on a unit front-foot basis, as approved by the City. Customers applying to tap the subject line shall pay the applicable rebate costs prior to tapping.

(2) Connecting lines. Where a proposed development is not contiguous to existing development, the City may require the developer to construct intervening connecting water or sewer lines. In this case, the City will set an amount for maximum rebate, being the approved actual cost of the connecting line. This rebate amount will be assigned to owners of the intervening property if, in the opinion of the City, the intervening owners can make reasonable use of the line in the future. Future developers or

customers in the intervening area shall be required to rebate the actual cost, or a prorated portion thereof, before connecting other mains or services to the subject line.

(3) Oversize. Where the City requires that a line be oversized for future users, the City may pay for oversize directly. However, if the Board of Trustees determines it infeasible to participate immediately in such rebate, the cost of oversizing shall be paid from system development fee income obtained from future customers located in an area determined by the City to have benefited from the oversize pursuant to an oversizing agreement approved by the Board of Trustees.

(4) Rebate amounts. Where the developer did not have the facilities installed after advertised bids, the actual cost shall be as estimated by the City Engineer and approved by the Board of Trustees. In case of disputed eligibility of costs, the Board of Trustees' decision will be final. In case of disputed method of rebate, a rational proposal shall be prepared by the City Engineer and approved by the Board of Trustees; the Board of Trustees' decision shall be final. No interest shall be allowed when determining rebate amounts.

(5) Rebate periods. A rebate agreement will be made for a maximum period of ten (10) years from the date of facilities acceptance. (Ord. 334 §6.2, 2005; Ord. 347 §1, 2008))

Sec. 13-6-30. Tapping fees.

Water and sewer tap fees are a one-time fee set to cover the actual cost of inspection and records processing for connecting to the City's distribution lines. Tap fees are decided by the Board of Trustees, based on actual cost experience. If multiple inspections are required because of poor installation or poor scheduling

on the part of the contractor, the City Manager may increase a specific tapping fee to cover the actual cost increase. (Ord. 334 §6.3, 2005)

Sec. 13-6-40. EQR Schedules.

For the setting of certain fees, the City has found it convenient to establish Equivalent Residential Unit Schedules. The base for this schedule is an average detached single-family residence, or its equivalent. The schedules are given in the following table.

TABLE 6.4.1
EQUIVALENT RESIDENTIAL UNIT (EQR)
SCHEDULE
WATER AND SEWER UTILITIES

	<i>CLASS OF USER</i>	<i>EQR</i>
A. RESIDENTIAL CLASSIFICATIONS		
1.	Single-Family Residential Units (per each)	1.0
	Single-family homes having not more than 3 bedrooms or baths; individually billed mobile homes; mobile homes on single lots; mobile homes established for permanent residences	
	Add for each additional bedroom/bath	0.2
	Note: Subrental privileges of all kinds are not permitted under the single-family category	
2.	Multi-Family Residential Units	
	Apartments, condominiums, townhouses and similar facilities in the same complex; all units intended for long-term rental or ownership	
	small sized unit. Shall not have more than 1 bedroom and 1 bathroom.	0.5
	medium sized unit. Shall not have more than 2 bedrooms or 2 bathrooms.	0.75
	large sized unit. Shall not have more than 3 bedrooms and 2½ bathrooms.	0.90
	any larger single unit.	1.0

	<i>CLASS OF USER</i>	<i>EQR</i>
A. RESIDENTIAL CLASSIFICATIONS (Cont'd)		
3.	Transient Residential Units	
	Hotels, motels, mobile home parks, dormitories and similar facilities Note: Includes laundry facilities in mobile homes; swimming pools and laundry facilities (except those in mobile homes) are additive; room counts shall include rooms furnished to employees; each billing unit shall have a minimum of 1 Manager's unit	
a.	Manager's unit (per each)	0.80
b.	Motels, hotels and rooming houses without kitchen facilities.	
	with not more than 2 bed spaces per room (per each rental room)	0.20
	with more than 2 bed spaces per room (per each room)	0.30
c.	Motels with kitchen facilities	
	with not more than 2 bed spaces per unit (per each rental unit)	0.25
	with more than 2 bed spaces per unit (per each rental unit)	0.35
d.	Dormitories (per each rental bed space)	0.10
e.	Add for laundry facilities (or available hookup) in each building, % of total EQR served	20%
f.	Mobile homes in park; with laundry	0.70/ space
B. COMMERCIAL CLASSIFICATION		
1.	Restaurants and Bars	
	Restaurants, bars, lounges, banquet rooms and drive-ins	
a.	Restaurants and bars (per 20 seats)	1.0
b.	Banquet rooms (per 20 seats)	0.4
c.	Drive-ins (per car stall)	0.2
d.	Drive through take-out service window	0.5

	CLASS OF USER	EQR
B. COMMERCIAL CLASSIFICATION (Cont'd)		
2.	Commercial Buildings	
	Office buildings, retail sales buildings, multiple use buildings, Laundromats, service stations, shops, garages and similar facilities. Note: No process water will be allowed to enter the sewer	
a.	Offices and office buildings (per 1,000 s.f. of gross floor area)	0.50
b.	Retail sales area (per 1,000 s.f. of gross sales and display area)	0.30
c.	Laundromats (per washing machine)	0.8
d.	Service stations (a set of pumps is defined as 1 fueling station regardless of the number of hoses)	
	First set of pumps	1.2
	Each additional set of pumps (per set)	0.8
	Add for each bay/rack where cars can be washed	1.4
e.	Nonretail work areas such as garages, machine shops (per each 10 employees)	0.7
C. CHURCH AND SCHOOL CLASSIFICATION		
1.	Churches (per 100 seats) Note: Rectories, social areas with kitchen facilities are additive	1.0
2.	Schools	
	Day care centers, public and private day schools Note: Includes teachers, librarians, custodians and administrative personnel associated with the school function; administrative centers, warehouses, equipment (such as buses) repair and/or storage centers, swimming pools and similar facilities are additive.	
a.	Without gym and without cafeteria (per 50 students)	1.4
b.	Without gym and with cafeteria or with gym and without cafeteria (per 50 students)	1.75
c.	With gym and cafeteria (per 50 students)	2.10

	CLASS OF USER	EQR
D. MISCELLANEOUS CLASSIFICATIONS		
1.	Swimming pools and wading pools Note: A permanent sign must be placed prominently at all pool filter installations stating that pools are not to be drained without permission from the Manager, that pool drainage rates will be subject to approval of the City, and that draining shall be limited to the hours between 11 p.m. and 6 a.m. the next day.	
a.	Private pools associated with single-family residential units (per 40,000 gallons of pool volume)	0.40
b.	Pools associated with multi-family and transient residential units (per 40,000 gallons of pool volume)	0.80
c.	Commercial and public pools. Total EQR to be computed from pool volume and per capita capacity as follows:	
	First 40,000 gallons of pool volume	1.05
	Each additional 40,000 gallon capacity.	0.75
2.	Recreational Vehicle Waste Disposal Stations The operator of the disposal facility shall provide a means acceptable to the City of counting the number of times the disposal facilities are used. The City shall review and approve charges made to users of dumping facilities by facility owners; no system development fees will be assessed for camper dump facilities, and the City reserves the right to cease service to such facilities at any time.	3.0 Unless otherwise determined
3.	Medical Hospital Note: Includes staff and administrative personnel associated with the hospital function.	
	Per bed	0.35
4.	Public Restrooms (per toilet or urinal)	0.15
5.	Assisted Living Facilities per Occupied Unit	0.35

<i>CLASS OF USER</i>		<i>EQR</i>
E. OTHER CLASSIFICATIONS		
	Equivalent shall be established on an individual basis for all users other than those identified in Classifications A, B, C, and D above. Industrial users will be subject to the requirements of the Environmental Protection Agency as those requirements pertain to assessment of users charges and cost recovery (refer to 40 C.F.R. § 35 (1987)).	
F. GENERAL NOTES		
1.	Each customer of the system will be charged a minimum of 1 EQR for purposes of establishing fixed costs.	

TABLE 6.4.2

**EQUIVALENT RESIDENTIAL USER (EQR)
SCHEDULE**

DRAINAGE UTILITY

	<i>CUSTOMER CATEGORY</i>	<i>EQR VALUE</i>
1.	Single-Family Residential Detached, average density, 3.2 DU/gross acre. Actual Density 1.0 to 6 DU/acre	1.0 EQR/Unit
2.	Multi-Family Residential (townhomes, Single-Family Attached, Apartment, Condominiums)	
	Gross density – dwelling units/acre*	
	Less than 4.0 DU/Acre	1.0 EQR/Unit
	4.0 to 6.99 DU/Acre	0.8 EQR/Unit
	7.0 to 9.99 DU/Acre	0.7 EQR/Unit
	10.0 to 12.99 DU/Acre	0.6 EQR/Unit
	13.0 or more DU/Acre	0.5 EQR/Unit
3.	Commercial Area	5.25 EQR/Acre
4.	Schools, Government-Type Buildings	3.5 EQR/Acre
5.	Open Space	0.0 EQR/Acre

* includes platted area with all streets, but does not include dedicated open space.

(Ord. 334 §6.4, 2005)

Sec. 13-6-50. System development fees.

(a) These are one-time fees designed to provide a recovery of capital investment attributable to regional facilities of the City's water systems.

(b) Water system development fees shall be assessed based on the applicable EQR value of the customer (Table 6.4.1). This process will be phased in with the 'flat rate' system over the next year. The current fee schedule is included in Appendix A, Schedule of Rates and Fees, a copy of which is available at the City Manager's office. Water system development fees are not applicable to fire protection service lines for water customers. (Ord. 334 §6.5, 2005; Ord. 347 §1, 2008)

Sec. 13-6-60. Water resource fee.

(a) This is a one-time fee charged to development annexing to the City after January 1, 2005, or for water supplied outside the City limits pursuant to an agreement. This fee is to cover the cost of water rights needed to supply the subject development. At the City's discretion, the proposed development may be required to furnish adequate water rights to the City; in which case, the water resource fee will be waived.

(b) Water resource fees will be assessed to the developer as a condition of annexation or commitment to serve unless otherwise approved by the Board of Trustees in writing. The water resource fee will be based on the EQR schedule given in Table 6.4.1 at the rate given in Appendix A, Schedule of Rates and Fees, a copy of which is available at the City Manager's office. (Ord. 334 §6.6, 2005; Ord. 347 §1, 2008)

Sec. 13-6-70. Sewer system development fee.

(a) These are fees designed to provide recovery of capital investment attributable to regional facilities of the City's sewer system.

(b) Sewer system development fees shall be assessed based on EQR value of the proposed customer, using the equivalent unit schedule contained herein (Table 6.4.1) and the unit rate as provided in Appendix A, Schedule of Rates and Fees, a copy of which is available at the City Manager's office. (Ord. 334 §6.7, 2005; Ord. 347 §1, 2008)

Sec. 13-6-80. Storm drainage system development fee.

(a) This is a fee designed to provide recovery of capital investment attributable to the development of the City's regional drainage facilities.

(b) Storm drainage system development fees shall be assessed based on the drainage EQR value of the proposed customer (Table 6.4.2), using the unit fee given in Appendix A, Schedule of Rates and Fees, a copy of which is available at the City Manager's office. (Ord. 334 §6.8, 2005; Ord. 347 §1, 2008)

Sec. 13-6-90. Water service charges.

City water system operating revenues are primarily derived from water service charges. Water delivered by the City shall be sold on a metered basis, except where meters have not yet been installed. A base fee is set to cover billing and a portion of fixed overhead costs. Where no meter exists, billing shall be based on the customer's EQR value. Service charges shall be billed as shown in Appendix A, Schedule of Rates and Fees, a copy of which is available at the City Manager's office. (Ord. 334 §6.9, 2005; Ord. 347 §1, 2008)

Sec. 13-6-100. Sewer service charges.

(a) Rate. City sewer system operating revenues are primarily derived from sewer service charges. Service charges shall be based on a flat

rate schedule, using the appropriate EQR value, and the unit rate given in Appendix A, Schedule of Rates and Fees, a copy of which is available at the City Manager's office.

(b) High strength sewage. The service charge rates given in Appendix A, Schedule of Rates and Fees, a copy of which is available at the City Manager's office, are based on sewage strength similar to normal domestic wastes. For any commercial or process water use where high strength wastes may be expected (above 230 mg/1 BOD-5 and 250 mg/1 SS), the City reserves the right to require installation of a sampling point, as approved by the City Engineer, and to charge a premium fee. Such premium shall be determined by the City Manager based on current treatment costs plus the administrative costs of sampling, testing and billing. (Ord. 334 §6.10, 2005; Ord. 347 §1, 2008)

Sec. 13-6-110. Drainage service charges.

City drainage system operating revenues are primarily derived from drainage service charges. The appropriate drainage service charge will be determined from the Drainage EQR Schedule (Table 6.4.2) and the unit rate given in Appendix A, Schedule of Rates and Fees, a copy of which is available at the City Manager's office. (Ord. 334 §6.11, 2005; Ord. 347 §1, 2008)

Sec. 13-6-120. Construction water charge.

A nonrefundable construction water charge shall be paid when the applicant for a new water service desires to have water service available at the premises for construction use prior to the time a meter may be properly set and protected from damage. Payment of the construction water charge will enable the premises to receive unmetered water service for construction use until the service is activated. Occupancy of the premises shall not occur until a meter has been

installed. The City Manager shall establish the nonrefundable construction water charge from time to time. The construction water charge shall be sufficient to generate the revenues estimated to have been collected if a meter had been installed. (Ord. 334 §6.12, 2005)

Sec. 13-6-130. Transfer of fees.

No system development fees paid on behalf of one (1) property, or any portion thereof, may be transferred to any other property without the written approval of the Board of Trustees. (Ord. 334 §6.13, 2005)

Sec. 13-6-140. Penalty for late payment.

(a) Utility bills forty-five (45) days past due will be assessed a one-percent monthly fee on any accrued outstanding balance. There will also be a processing fee assessed the first month past due and, thereafter, an additional fee per month as long as the bill is outstanding.

(b) At sixty (60) days past due, the customer will be sent a "water shut-off" notice, allowing him or her thirty (30) days to bring his or her balance current or make arrangements. All monthly billing shall continue with all delinquent fees being assessed.

(c) At ninety (90) days past due, the water service will be shut off, and the delinquent utility bill shall be collected with the authority and procedures outlined in Section 13-6-150 below. All monthly billing shall continue with all delinquent fees being assessed. The water shall not be turned back on until all past due charges are brought current (including turn-off and -on fees).

(d) Furthermore, if a public utility bill goes unpaid for twelve (12) consecutive months, the water connection (tap) will be considered abandoned. The water shall not be turned back on until all past due charges are brought current and a new water connection (tap) fee is paid in full. (Ord. 334 §6.14, 2005; Ord. 347 §1, 2008)

Sec. 13-6-150. Penalties for liens and foreclosure proceedings.

(a) By authority of Section 31-20-105, C.R.S., any municipality may cause any or all delinquent charges levied to be certified to the County Treasurer and be collected and paid by the County Treasurer in the same manner as taxes are authorized by this Chapter.

(b) Each water charge levied shall be a lien therewith, and if the same is not paid within ninety (90) days after it becomes due and payable, the City Manager shall certify such unpaid rates or charges to the County Treasurer, to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten-percent penalty thereon to defray the cost of collection. The same shall be collected and paid over by the County Treasurer to the City in the same manner as taxes are authorized to be paid by all laws in the State. Such delinquent water charges may also be certified to the Board of Trustees or County Commissioners and shall become a lien upon the real property served by such water connection and collected in the same manner as though they were part of the taxes.

(c) Except as specifically amended herein or in conflict with any provisions hereof, all of the provisions of Ordinance No. 183 and Ordinance No. 184, as amended, and any subsequent ordinances or resolutions amending such ordinances, shall remain in full force and effect. (Ord. 334 §6.16, 2005; Ord. 347 §1, 2008)

ARTICLE 7

Appeal Procedures

Sec. 13-7-10. Application.

The appeal procedures established by this Article shall apply to all complaints concerning the interpretation, application or enforcement of

this Chapter, as they now exist or may hereafter be amended. The appeal procedures established by this Article shall not apply to the following complaints:

(1) Complaints arising out of the interpretation of the terms of City contracts.

(2) Complaints, which arise with regard to personnel matters, which complaints shall be governed exclusively by the City's personnel rules as the same may be amended from time to time. (Ord. 334 §7.1, 2005; Reso. 07-12, 2007)

Sec. 13-7-20. Initial complaint; resolution.

Complaints concerning the interpretation, application or enforcement of this Chapter must be presented in writing to the City Manager. Upon receipt of a complaint, the City Manager, after a full and complete review of the allegation contained in the complaint, shall arrange to have the appeal considered by the Board of Trustees. The appeal will be heard within fifteen (15) days, but not earlier than ten (10) days, at the Board of Trustees' next regularly scheduled meeting or a special meeting. (Ord. 334 §7.2, 2005; Reso. 07-12, 2007; Ord. 347 §1, 2008)

Sec. 13-7-30. Appeal to Board of Trustees.

The request for an appeal shall set forth with specificity the facts or exhibits presented which the complainant relies and shall contain a brief statement of the complainant's reasons for the appeal. The City Manager will compile a written record of the appeal consisting of all exhibits or other physical evidence offered. Such consideration shall be limited exclusively to a review of the record on appeal and the complainant's written request for appeal. No further evidence shall be presented by any party to the appeal, and there shall be no right to a hearing *de novo* before the Board of Trustees. (Ord. 334 §7.6, 2005; Reso. 07-12, 2007)

Sec. 13-7-40. Board of Trustees' findings.

The Board of Trustees shall make written findings and an order concerning the disposition of the appeal presented to it and shall cause notice of the decision to be sent by certified mail to the complainant within thirty (30) days after the hearing. The Board of Trustees will not reverse the decision of the City Manager or his or her hearing officer, unless it appears that such decision was contrary to the manifest weight of the evidence made available at the formal hearing. (Ord. 334 §7.7, 2005; Reso. 07-12, 2007)

Sec. 13-7-50. Notice.

The complainant shall be given notice of the appeal before the Board of Trustees by certified mail at least seven (7) calendar days prior to the date of the hearing. When a complainant is represented by an attorney, notice of any action, finding, determination, decision or order affecting the complainant shall also be served upon the City Attorney. (Ord. 334 §7.8, 2005; Reso. 07-12, 2007; Ord. 347 §1, 2008)

ARTICLE 8

Water and Sewer Activity Enterprise

Sec. 13-8-10. Establishment of Enterprise.

There is hereby reaffirmed, pursuant to the terms and provisions of the Water Activity Law (Title 37, Article 45.1, C.R.S.), the "City of Creede Water and Sewer Activity Enterprise" (the "Enterprise"). The Enterprise shall be wholly owned by the City and shall consist of the business represented by all of the City's water and sewer facilities and properties now owned or hereafter acquired, whether situated within or without the City boundaries, including all present or future improvements, extensions, enlargements, betterments, replacements or

additions thereof or thereto (the "System"). The Enterprise shall have all of the authority, powers, rights, obligations and duties as may be provided or permitted by the Water Activity Law and the Colorado Constitution and as may be further prescribed by resolution of the City. (Ord. 348 §1, 2009)

Sec. 13-8-20. Governing body.

The governing body of the Enterprise shall be the Board of Trustees of the City and shall be subject to all of the applicable laws, rules and regulations pertaining to the Board of Trustees. (Ord. 348 §2, 2009)

Sec. 13-8-30. Maintenance of Enterprise status.

The Enterprise shall at all times and in all ways conduct its affairs so as to continue to qualify as a "water activity enterprise" within the meaning of Section 37-45.1-102, C.R.S., and as an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution. Specifically, but not by way of limitation, for calendar year 2009 and for such calendar years thereafter as shall be determined in the discretion of the Board of Trustees, the Enterprise is not authorized and shall not receive ten percent (10%) or more of its annual revenue in grants from all Colorado state and local governments combined. (Ord. 348 §3, 2009)

Sec. 13-8-40. Issuance of bonds.

The Enterprise is authorized to issue bonds, notes or other obligations payable from the revenues derived or to be derived from the System, in accordance with the Water Activity Law. (Ord. 348 §4, 2009)

CHAPTER 18

Building Regulations

Article 1 Building Permits

Division 1 General Provisions

- Sec. 18-1-10 Establishment of building permit
- Sec. 18-1-20 Establishment of development permit
- Sec. 18-1-30 Designation of City Manager
- Sec. 18-1-40 Duties and responsibilities of City Manager

Division 2 Balcony Permits

- Sec. 18-1-110 Revocable permit required
- Sec. 18-1-120 Application process
- Sec. 18-1-130 Issuance of permit
- Sec. 18-1-140 Revocation of permit
- Sec. 18-1-150 Notice of revocation
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Article 2 Building and Residential Codes

- Sec. 18-2-10 Adoption
- Sec. 18-2-20 Copy on file
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- Sec. 18-2-40 Violations
- Sec. 18-2-50 Penalties and fees

Article 3 Electrical Code

- Sec. 18-3-10 Adoption
- Sec. 18-3-20 Copy on file
- Sec. 18-3-30 Amendments

Article 4 Mechanical Code

- Sec. 18-4-10 Adoption
- Sec. 18-4-20 Copy on file
- Sec. 18-4-30 Amendments

Article 5 Plumbing Code

- Sec. 18-5-10 Adoption
- Sec. 18-5-20 Copy on file
- Sec. 18-5-30 Amendments

Article 6 Fire Code

- Sec. 18-6-10 Adoption
- Sec. 18-6-20 Copy on file
- Sec. 18-6-30 Amendments

ARTICLE 1

Building Permits

Division 1
General Provisions

Sec. 18-1-10. Establishment of building permit.

A building permit shall be obtained for the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition or occupancy of any building or structure in the City. (Ord. 270 §4.1, 1989)

Sec. 18-1-20. Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard. Application for a development permit shall be made on forms furnished by the City Manager, and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

(2) Elevation in relation to mean sea level to which any structure has been floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria established by the City; and

(4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. (Ord. 270 §4.2, 1989)

Sec. 18-1-30. Designation of City Manager.

The City Manager is hereby appointed to administer and implement this Article by arranging for all building and development permit applications to be reviewed as needed in accordance with the provisions of this Article. (Ord. 270 §4.3, 1989)

Sec. 18-1-40. Duties and responsibilities of City Manager.

Duties of the City Manager shall include, but not be limited to:

(1) Building and development application review.

a. Review and/or arrange for all building and development permit applications to be reviewed as necessary to determine that the permit requirements of this Article have been satisfied.

b. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

c. Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For the purposes of this Article, *adversely affects* means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent over bank areas.

1. If it is determined that there is no adverse effect and the development is not a building, then the development permit shall be granted without further consideration.

2. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required for the issuance of a development permit.

3. If the proposed development is a building, then the provisions of this Article shall apply for a development permit.

(2) Use of other base flood data.

a. When base flood elevations data has not been provided in accordance with standards of the City, the City Manager shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source as criteria for requiring that new construction, substantial improvements or other development in Zone A are administered in accordance with said standards.

b. Since no base flood data is provided in accordance with said standards, the City Manager will utilize *the Flood Hazard Identification Report, Willow Creek, Creede, Colorado*, as written by the Colorado Department of Natural Resources, Colorado Water Conservation Board, dated December, 1986, and the resolution adopted by the same agency designating the floodplain areas in the City, as described in the *Flood Hazard Identification Report, Willow Creek, Creede, Colorado*. Such resolution is dated January 23, 1987.

(3) Information to be obtained and maintained for development permits.

a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

b. For all new or substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

2. Maintain the floodproofing certifications required in Section 18-1-20(3) above.

c. Maintain for public inspection all records pertaining to the provisions of this Article.

(4) Alteration of watercourses.

a. Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Interpretation of FIRM boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). (Ord. 270 §4.4, 1989; Ord. 347 §1, 2008)

*Division 2
Balcony Permits*

Sec. 18-1-110. Revocable permit required.

No person shall erect or maintain any balcony or similar encroachment from that person's adjacent property, upon or over any street, alley, sidewalk or other public property without first obtaining a permit from the Board of Trustees under this Division. (Ord. 347 §1, 2008)

Sec. 18-1-120. Application process.

An applicant for a balcony permit shall:

(1) File a written application therefor on forms furnished by the City that include the following: the date, the name of the applicant, the location of the proposed balcony, including the legal description of the applicant's and record owner's adjacent property, and such other information as the Board of Trustees may deem necessary;

(2) Pay a one-time application fee as set by the Board of Trustees.

(3) Provide a copy of the recorded deed whereby the applicant establishes that he or she is the record owner of the adjacent property. All record owners of the property shall sign the application as well as the indemnification agreement described herein. (Ord. 347 §1, 2008)

Sec. 18-1-130. Issuance of permit.

The Board of Trustees shall inspect or cause to be inspected the balcony described in the application. If, in the sole judgment of the Board of Trustees, the issuance of a permit for the balcony is in the best interest of the City, the Board of Trustees shall authorize the City Manager to issue the permit upon compliance with all other provisions hereof. No such permit shall be issued until

approval by the Board of Trustees, verification of ownership, delivery of certificate of insurance, execution and recording of the indemnification agreement, and payment of the application fee. The decision of the Board of Trustees shall be final and shall be based upon all circumstances surrounding the proposed balcony. Circumstances to be considered by the Board of Trustees and the weight to be given to each shall be at the sole discretion of the Board of Trustees. (Ord. 347 §1, 2008)

Sec. 18-1-140. Revocation of permit.

The Board of Trustees may revoke a permit issued under this Division whenever the Board of Trustees, in its sole judgment, determines that such permit should be revoked. Such revocation may be on the grounds of public safety, public necessity, public good or any other cause which the Board of Trustees, in its sole judgment, determines to be applicable. The grounds for revocation of a permit under this Division shall not be limited to the grounds set forth in this Section. (Ord. 347 §1, 2008)

Sec. 18-1-150. Notice of revocation.

Whenever the Board of Trustees revokes a permit under this Division, and whenever a balcony is constructed or maintained on or over any public property without obtaining a permit, the City Manager shall notify the record owner of the adjacent premises to remove such balcony within such time as the Board of Trustees determines is reasonable under the circumstances. (Ord. 347 §1, 2008)

Sec. 18-1-160. Removal by City.

If the record owner fails to comply with the order to remove the balcony, the Board of Trustees may cause the balcony to be removed and charge the costs thereof, plus up to fifteen percent (15%) of such costs for administration, to the record owners of the adjacent property. If any record

owner fails or refuses to pay, when due, any charges imposed under this Section, the Board of Trustees may, in addition to taking other collection remedies, certify any unpaid charges, including interest, to the County Treasurer, to be levied against the adjacent property for collection by the County in the same manner as delinquent general taxes upon such adjacent property are collected. (Ord. 347 §1, 2008)

Sec. 18-1-170. Nuisance declared.

The Board of Trustees hereby declares that the construction or maintenance of a balcony upon or over any public property within the City, without obtaining a permit as required under this Division, constitutes a public nuisance. (Ord. 347 §1, 2008)

ARTICLE 2

Building and Residential Codes

Sec. 18-2-10. Adoption.

Pursuant to Parts 1 and 2 or Article 16 of Title 31, C.R.S., there is hereby adopted by reference the 2003 editions of the International Building Code and International Residential Code published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, Virginia, 22041, to have the same force and effect as if set forth herein in every particular. The subject matter of the adopted code includes comprehensive provisions and standards regulating to the erection, construction, enlargement, alteration, repair, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings and structures for the purpose of protecting the public health, safety and general welfare. (Ord. 335 §1, 2005; Ord. 347 §1, 2008)

Sec. 18-2-20. Copy on file.

At least one (1) copy of the Codes adopted herein, certified to be true copies, has been and is

now on file in the office of the City Manager and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The code as finally adopted shall be available for sale to the public through the office of the City Manager at a moderate price. (Ord. 335 §1, 2005; Ord. 347 §1, 2008)

Sec. 18-2-30. Amendments.

The code adopted herein is subject to the following modifications:

(1) All roof structures within the City limits and otherwise subject to the Codes shall be designed and built to withstand a minimum snow load of eighty (80) pounds per square foot. This modification shall be incorporated into other areas of the Codes as appropriate.

(2) All footers used to support structures in the City that are otherwise subject to the provision of the Codes shall be placed a minimum depth of twenty-four (24) inches below ground surface or to such modified or additional depth as recommended and certified by the Building Inspector. (Ord. 335 §3, 2005; Ord. 347 §1, 2008)

Sec. 18-2-40. Violations.

(a) It is unlawful and constitutes a violation for any person to begin construction without first obtaining a building permit from the City Manager or Building Official.

(b) It is unlawful and constitutes a public nuisance for any person to maintain any property, building or any other structure in the City in a condition, which is in violation of the International Building Code, the International Residential Code or zoning regulations of the City. (Ord. 347 §1, 2008)

Sec. 18-2-50. Penalties and fees.

(a) It is unlawful for any person to violate any of the provisions of the codes adopted herein.

(b) Every person convicted of a violation of any provision adopted herein shall be allowed five (5) business days to rectify the violation. If the violation is not rectified in five (5) days, a cease and desist order will be issued, and a fine not exceeding one hundred (\$100.00) dollars for each day of violation from that date shall be imposed.

(c) The fees applicable to codes shall be amended by resolution of the Board of Trustees. (Ord. 335 §4, 2005; Ord. 347 §1, 2008)

ARTICLE 3

Electrical Code

Sec. 18-3-10. Adoption.

Pursuant to the power and authority conferred by Section 31-16-201, et seq., C.R.S., there is adopted as the electrical code of the City, by reference thereto, the *National Electrical Code*, 2002 edition, and all appendices, tables and examples thereto, published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. The purpose of the adopted code is to protect the health, safety and lives of the residents of the City. The subject matter of the adopted code includes comprehensive rules and regulations governing materials, methods of installation, inspection and other matters pertaining to the practical safeguarding of persons and property from hazards arising from the use of electricity. (Ord. 347 §1, 2008)

Sec. 18-3-20. Copy on file.

At least one (1) copy of the *National Electrical Code*, certified to be a true copy, has been and is now on file in the office of the City Manager and

may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The code as finally adopted shall be available for sale to the public through the office of the City Manager at a moderate price. (Ord. 347 §1, 2008)

Sec. 18-3-30. Amendments.

The code adopted herein is hereby modified by the following amendments: none. (Ord. 347 §1, 2008)

ARTICLE 4

Mechanical Code

Sec. 18-4-10. Adoption.

Pursuant to the power and authority conferred by Section 31-16-201, et seq., C.R.S., there is adopted by reference thereto the *International Mechanical Code*, 2003 edition, and the appendices thereto, promulgated by the International Code Council Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois, 60478-5795. The purpose of this code is to regulate and control the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the City. (Ord. 347 §1, 2008)

Sec. 18-4-20. Copy on file.

At least one (1) copy of the *International Mechanical Code*, certified to be a true copy, has been and is now on file in the office of the City Manager and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The code as finally adopted shall be available for sale to the public through the office of the City Manager at a moderate price. (Ord. 347 §1, 2008)

Sec. 18-4-30. Amendments.

The code adopted herein is hereby modified by the following amendments: none. (Ord. 347 §1, 2008)

ARTICLE 5

Plumbing Code

Sec. 18-5-10. Adoption.

Pursuant to the power and authority conferred by Section 31-16-201, et seq., C.R.S., there is adopted by reference thereto the *International Plumbing Code*, 2003 edition, and all appendices thereto, promulgated by the International Code Council Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois, 60478-5795. The purpose and subject matter of this code is to regulate and control the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the City. (Ord. 347 §1, 2008)

Sec. 18-5-20. Copy on file.

At least one (1) copy of the *International Plumbing Code*, certified to be a true copy, has been and is now on file in the office of the City Manager and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The code as finally adopted shall be available for sale to the public through the office of the City Manager at a moderate price. (Ord. 347 §1, 2008)

Sec. 18-5-30. Amendments.

The code adopted herein is hereby modified by the following amendments: none. (Ord. 347 §1, 2008)

ARTICLE 6

Fire Code

Sec. 18-6-10. Adoption.

Pursuant to the power and authority conferred by Section 31-16-201, et seq., C.R.S., there is adopted as the fire code for the City, by reference thereto, the *International Fire Code*, 2003 edition, and all appendices and tables thereto, published by the International Code Council Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois, 60478-5795. The purpose of the adopted code is to regulate and govern the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; to provide for the issuance of permits and collection of fees therefor; and to protect the health, safety and welfare of the residents of the City. (Ord. 347 §1, 2008)

Sec. 18-6-20. Copy on file.

At least one (1) copy of the *International Fire Code*, certified to be a true copy, has been and is now on file in the office of the City Manager and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted. The code as finally adopted shall be available for sale to the public through the office of the City Manager at a moderate price. (Ord. 347 §1, 2008)

Sec. 18-6-30. Amendments.

The code adopted herein is hereby modified by the following amendments: none. (Ord. 347 §1, 2008)

CODE COMPARISON TABLE

<u>Prior Code</u>	<u>New Code</u>	<u>Prior Code</u>	<u>New Code</u>	<u>Prior Code</u>	<u>New Code</u>
1-1-1	1-1-20	2-10-8	Deleted	5-1-5	2-4-60
1-1-2	1-2-10, 1-2-20, 1-2-40, 1-2-50, 1-3-10, 1-3-20, 1-3-40	2-10-9	2-5-70	5-1-6	2-4-70
1-1-3	1-3-80	2-10-10	2-5-80	5-1-8	2-4-140
1-1-4	1-3-130	2-10-11	2-5-90	5-1-9	2-4-100
1-1-5	Deleted	2-10-12	2-5-100	5-1-10	2-4-90
1-1-6	1-3-60	2-11-1	2-8-10	5-1-11	2-4-30, 2-4-170
1-1-7	1-4-20	2-11-2	2-8-20	5-1-12	2-4-130
1-1-8	1-3-110	2-11-3	2-8-30	5-1-13	2-4-110
2-1-1	2-2-10	2-11-4	2-8-40	5-1-14	2-4-110
2-1-2	2-2-30	2-12-1	Deleted	5-1-15	2-4-120
2-1-3	2-2-40	2-12-2	Deleted	5-2-1	Deleted
2-1-4	2-2-50	2-12-3	Deleted	5-2-2	Deleted
2-2-1	2-2-10, 2-2-20	2-12-4	Deleted	5-2-3	Deleted
2-2-2	1-3-70, 2-2-70 2-2-80—2-2-130	2-12-5	Deleted	5-2-4	Deleted
2-2-3	2-2-140	2-12-6	Deleted	5-2-5	Deleted
2-2-4	2-2-150, 2-3-30	2-12-7	2-6-10	5-2-6	Deleted
2-2-7	2-2-60, 2-3-50	2-12-8	2-6-20	5-2-7	Deleted
2-4-1	2-3-70	2-12-9	Deleted	5-2-8	Deleted
2-4-2	2-3-70	2-12-10	Deleted	5-2-9	Deleted
2-4-3	2-3-70	3-5-1	Deleted	5-2-10	Deleted
2-5-1	2-3-80	3-5-2	Deleted	5-2-11	Deleted
2-5-2	2-3-70, 2-3-80	3-5-3	Deleted	5-2-12	Deleted
2-5-3	2-3-80	3-5-4	Deleted	5-2-13	Deleted
2-6-1	2-3-90	3-5-5	Deleted	5-2-14	Deleted
2-6-2	2-3-90	3-5-6	Deleted	5-2-15	Deleted
2-7-1	2-1-20	3-5-7	Deleted	5-2-16	Deleted
2-7-2	2-3-40	3-5-8	Deleted	5-2-17	Deleted
2-7-12	2-1-30	3-5-9	Deleted	5-2-18	Deleted
2-9-1	2-7-10	3-5-10	Deleted	5-3-1	Deleted
2-9-2	2-7-20	3-5-11	Deleted	5-3-2	Deleted
2-9-3	2-7-30	3-5-12	Deleted	5-3-3	Deleted
2-9-4	2-7-40	3-5-13	Deleted	5-3-4	Deleted
2-9-5	2-7-50	3-5-14	Deleted	5-3-5	Deleted
2-9-6	2-7-60	3-5-15	Deleted	5-3-6	Deleted
2-9-7	2-7-70	3-5-16	Deleted	5-3-7	Deleted
2-9-8	2-7-80	3-5-17	Deleted	5-3-8	Deleted
2-9-9	2-7-90	3-5-18	Deleted	5-3-9	Deleted
2-9-10	2-7-100	3-5-19	Deleted	5-3-10	Deleted
2-9-11	2-7-110	3-5-20	Deleted	5-3-11	Deleted
2-9-12	2-7-120	3-6-1	6-1-10	5-3-12	Deleted
2-9-13	2-7-130	3-6-2	Deleted	5-3-13	Deleted
2-10-2	2-5-20	3-6-3	6-1-30	8-1-1	Deleted
2-10-3	2-5-30	3-6-4	Deleted	8-1-2	Deleted
2-10-4	2-5-40	3-6-5	Deleted	8-1-3	Deleted
2-10-5	2-5-50	3-6-6	Deleted	8-1-4	Deleted
2-10-6	Deleted	3-6-7	Deleted	8-1-5	Deleted
2-10-7	2-5-60	3-6-8	Deleted	8-1-6	Deleted
		5-1-1	2-4-10	8-1-7	Deleted
		5-1-2	2-4-20	8-1-8	Deleted
		5-1-3	2-4-40	8-1-9	Deleted
		5-1-4	2-4-50	8-1-10	Deleted

CODE COMPARISON TABLE

<u>Prior Code</u>	<u>New Code</u>	<u>Prior Code</u>	<u>New Code</u>	<u>Prior Code</u>	<u>New Code</u>
8-1-11	Deleted	10-3-7	10-4-60	10-8-1	10-10-10—10-10-60
8-1-12	Deleted	10-3-8	7-2-80	10-8-2	Deleted
8-1-13	Deleted	10-3-9	10-3-50	10-8-3	Deleted
8-2-1	Deleted	10-3-10	10-3-60	10-8-4	Deleted
8-2-2	Deleted	10-4-1	10-6-10	10-8-5	Deleted
8-2-3	Deleted	10-4-2	10-6-40	10-8-6	Deleted
8-2-4	Deleted	10-4-3	10-6-50	10-8-7	10-2-50
8-2-5	Deleted	10-4-4	10-8-30	10-8-8	10-2-70
8-2-6	Deleted	10-4-5	10-6-60	10-8-9	10-2-20
8-2-7	Deleted	10-4-6	10-6-70	10-8-10	10-2-30
8-2-8	Deleted	10-4-7	10-6-80	10-8-11	Deleted
8-2-9	Deleted	10-5-1	10-5-100	10-8-12	10-3-30
8-2-10	Deleted	10-5-2	10-5-130	10-8-13	10-13-10
8-2-11	Deleted	10-5-3	10-5-120	10-8-14	10-1-60
8-3-1	Deleted	10-5-4	10-12-10—10-12-70	11-1-1	7-7-10
8-3-2	Deleted	10-5-5	10-5-110	11-1-2	Deleted
8-3-3	Deleted	10-5-6	10-5-80	11-1-3	7-7-20
8-3-4	Deleted	10-5-7	10-5-60	11-1-4	7-7-30
8-3-5	Deleted	10-5-8	10-5-10	11-1-5	7-7-40
8-3-6	Deleted	10-5-9	10-8-40	11-1-6	7-7-50
8-3-7	Deleted	10-5-10	10-8-70	11-1-7	7-7-60
8-3-8	Deleted	10-5-11	10-5-70	11-1-8	7-7-70
8-3-9	Deleted	10-5-12	10-1-30	11-1-9	7-7-80
10-1-1	7-1-20	10-5-13	10-5-20	11-2-1	Deleted
10-1-2	7-1-30	10-5-14	10-3-30	11-2-2	Deleted
10-1-3	7-1-40, 7-1-70, 7-1-90	10-5-15	10-9-20	11-2-3	Deleted
10-1-4	7-1-90	10-5-16	10-9-30	11-2-4	7-7-210
10-1-5	7-1-90	10-5-17	10-9-40	11-2-5	7-7-220
10-1-6	7-1-90	10-5-18	10-9-50	11-2-6	Deleted
10-1-7	7-1-90	10-5-19	10-5-90	11-2-7	Deleted
10-1-8	7-1-100	10-5-20	10-5-40	11-2-8	Deleted
10-1-9	7-1-130	10-6-1	Deleted	11-2-9	Deleted
10-2-1	Deleted	10-6-2	Deleted	11-2-10	Deleted
10-2-2	7-2-120	10-6-3	Deleted	11-2-11	Deleted
10-2-3	7-2-60	10-6-5	Deleted	11-2-12	Deleted
10-2-4	7-2-70	10-6-6	Deleted	11-2-13	Deleted
10-2-5	7-2-50	10-6-7	10-7-10	11-2-14	Deleted
10-2-6	7-2-130	10-6-8	Deleted	11-2-15	7-7-230
10-2-7	7-2-100	10-6-9	10-7-20, 10-7-30	11-2-16	7-7-240
10-2-8	7-2-40	10-6-10	Deleted	11-2-17	Deleted
10-2-9	7-2-150	10-6-11	Deleted	11-2-18	7-7-250
10-2-10	Deleted	10-6-12	10-7-40	11-2-19	Deleted
10-2-11	7-2-20	10-6-13	10-7-50	11-2-20	7-7-260
10-2-12	7-2-160	10-6-14	10-7-60	11-2-21	7-7-270
10-3-1	10-4-20	10-7-1	10-11-10	11-2-22	7-7-280
10-3-2	10-4-30	10-7-2	10-11-20	11-2-23	7-7-290
10-3-3	10-4-50	10-7-3	10-11-30	11-2-24	7-7-300
10-3-4	10-3-40	10-7-4	10-11-40	11-2-25	7-7-320
10-3-5	10-4-40	10-7-5	10-11-50	11-2-26	7-7-330
10-3-6	7-2-30	10-7-6	10-11-60	11-2-27	7-7-340
		10-7-7	10-11-70	11-3-1	Deleted

CODE COMPARISON TABLE

<u>Prior Code</u>	<u>New Code</u>
11-3-2.....	Deleted
11-3-3.....	Deleted
11-3-4.....	Deleted
11-3-5.....	Deleted
11-3-6.....	Deleted
11-3-7.....	Deleted
11-3-8.....	Deleted
11-3-9.....	Deleted
11-3-10.....	Deleted
11-3-11.....	Deleted
11-3-12.....	Deleted
12-1-1.....	7-1-10
12-1-2.....	7-3-10
12-1-3.....	7-3-30
12-1-4.....	7-3-40
12-1-5.....	7-3-50
12-1-6.....	7-3-60
12-1-7.....	7-3-70
12-1-8.....	7-3-80
12-1-9.....	7-3-90
12-1-10.....	7-3-100
12-1-11.....	Deleted
12-2-1.....	7-1-10
12-2-2.....	7-4-10
12-2-3.....	7-4-20
12-2-4.....	7-4-30
12-2-5.....	7-4-40
12-2-6.....	7-4-50
12-2-7.....	7-4-60
12-2-8.....	7-4-70
12-2-9.....	7-4-80
12-2-10.....	7-4-90
12-2-11.....	7-4-100
18-2-1.....	2-10-10
18-2-2.....	2-10-20
18-2-3.....	2-10-30

ORDINANCE LIST AND DISPOSITION TABLE

<u>Ord. No.</u>	<u>Year</u>	<u>Subject</u>	<u>Section</u>	<u>Disposition</u>
184	1971	Water regulations	9-1-1 9-1-2	13-1-70 13-1-80
185	1972	Snowmobile regulations	15-2-1 15-2-21 15-2-33	8-2-10 8-2-20 8-2-30
187	1972	Compensation of Municipal Judge		2-4-80
192	1974	Minors in taverns	2—4	Deleted
196	1975	1973 Uniform Building Code		Deleted
198	1975	Board of Trustees	1 2 3	2-2-10 2-2-30 2-2-20
200	1976	Fire Department	2—6	Deleted
201	1976	Sales tax	2 3 5 6	4-3-10 4-3-20 4-3-40—4-3-80 4-3-30
202	1976	Sales tax schedule	4	4-3-30
203	1976	Snow removal	1—4	11-1-20
206	1976	Dog regulations	2	7-7-240, 7-7-250
210	1977	Traffic regulation	2	8-1-60
212	1977	Pollution of water	2—4	7-2-30
218	1980	Dog license fees		Deleted
221	1980	Board of Trustees procedures	1	2-2-120, 2-2-130
226	1981	Water taps	II	Deleted
227	1981	Sewer taps	II	Deleted
228	1981	Water meters	1	Deleted
232	1983	Sewer tap permit	1 2	Deleted Deleted
		Building fees	3	Deleted
233	1983	Delinquent water bills	1	Deleted
234	1983	Compensation of Town Administrator	2	2-3-60
236	1983	Capital Improvements Fund	2 3, 5	4-2-30 4-3-20
243	1984	Water charges	I	Deleted
251	1985	Police Department	1	2-5-10
259	1986	Sewer rates	I, II	Deleted

ORDINANCE LIST AND DISPOSITION TABLE

<u>Ord. No.</u>	<u>Year</u>	<u>Subject</u>	<u>Section</u>	<u>Disposition</u>
70	1989	Flood prevention Building permits	1	Deleted
			4.1	18-1-10
			4.2	18-1-20
			4.3	18-1-30
			4.4	18-1-40
			5	Deleted
			6	Deleted
276	1990	Electric franchise	Art. I	5-2-10
			2.1	5-2-20
			2.2	5-2-30
			2.3	5-2-40
			2.4	5-2-50
			2.5	5-2-60
			3.1	5-2-70
			3.2	5-2-80
			3.3	5-2-90
			3.4	5-2-100
			3.5	5-2-110
			4.1	5-2-120
			4.2	5-2-130
			5.1	5-2-140
			5.2	5-2-150
			5.3	5-2-160
5.4	5-2-170			
5.5	5-2-180			
286	1992	Election	1	2-1-20
			2, 3	2-1-30
288	1992	Snowmobile regulations Nonmotorized devices	Part 2	Deleted
			Part 3	Deleted
			Part 4	8-1-20
293	1993	Dogs running at large	1	7-7-300
298	1994	Permit to operate horse-drawn carriages	2	6-2-10—6-2-110
301	1996	Water rates	II	Deleted
303	1998	Adopting 1995 Model Traffic Code	1	8-1-10
304	1998	Dog rabies vaccination	II	7-7-210
305	1998	Compensation of Board of Trustees	1	2-2-60
306	1998	Animal offenses	II	10-11-10
308	1998	Noise regulations	1	Repealed
311	2000	Compensation of Board of Trustees	1	2-2-60
312	2000	Rock climbing	1	10-13-20
314	2000	Dogs in ball park	1—3	7-7-310
318	2001	Traffic regulations	1	8-1-70
324	2001	Excavation permits		11-2-10
			1	11-2-40
			2	11-2-50

ORDINANCE LIST AND DISPOSITION TABLE

<u>Ord. No.</u>	<u>Year</u>	<u>Subject</u>	<u>Section</u>	<u>Disposition</u>
325	2002	Utility drainage fees	II—IV	Deleted
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