

CHAPTER 7

Health, Sanitation and Animals

Article I Administration and Abatement of Nuisances

- Sec. 7-1-10 Definitions
- Sec. 7-1-20 Prohibition of nuisances
- Sec. 7-1-30 Right of entry
- Sec. 7-1-40 Filing complaint
- Sec. 7-1-50 Abatement of nuisance
- Sec. 7-1-60 Obstructing abatement
- Sec. 7-1-70 Notice to discontinue, abate or remove nuisances; enforcement
- Sec. 7-1-80 Report of costs
- Sec. 7-1-90 Assessment of property for costs
- Sec. 7-1-100 Notice of assessment
- Sec. 7-1-110 Payment of assessment
- Sec. 7-1-120 Objection to assessment; hearing
- Sec. 7-1-130 Certified assessment
- Sec. 7-1-140 Cumulative remedies
- Sec. 7-1-150 Concurrent remedies
- Sec. 7-1-160 Author of nuisances
- Sec. 7-1-170 Constitution of separate offense
- Sec. 7-1-180 Violations and penalties

Article II Nuisances

- Sec. 7-2-10 Common law nuisances
- Sec. 7-2-20 Dangerous conditions
- Sec. 7-2-30 Public nuisances prohibited generally
- Sec. 7-2-40 Accumulation to constitute nuisances
- Sec. 7-2-50 Littering
- Sec. 7-2-60 Use of property for dumping unlawful
- Sec. 7-2-70 Slaughterhouse
- Sec. 7-2-80 Keeping green hides
- Sec. 7-2-90 Nauseous liquids on street
- Sec. 7-2-100 Putrid fat rendering
- Sec. 7-2-110 Clogging sewers
- Sec. 7-2-120 Stagnant ponds
- Sec. 7-2-130 Unclean stables
- Sec. 7-2-140 Deposit of noxious substances on streets and in water sources
- Sec. 7-2-150 Removal of dead animals
- Sec. 7-2-160 Hawking, soliciting of business
- Sec. 7-2-170 Control of dust-producing area
- Sec. 7-2-180 Geologic hazard areas
- Sec. 7-2-190 Offensive and dangerous businesses
- Sec. 7-2-200 Violations of building codes and municipal zoning ordinance
- Sec. 7-2-210 Maximum permissible noise levels

Article III Garbage and Refuse

- Sec. 7-3-10 General, definition
- Sec. 7-3-20 Accumulation of refuse prohibited and declared nuisance
- Sec. 7-3-30 Accumulation of refuse; abatement
- Sec. 7-3-40 Responsibility of owners and lessees for refuse on premises
- Sec. 7-3-50 Removal of refuse from business required

- Sec. 7-3-60 Unauthorized use of trash Dumpsters
- Sec. 7-3-70 Unlawful placement of residential garbage or recycling containers

Article IV Weed Regulation and Control

- Sec. 7-4-10 Definitions
- Sec. 7-4-20 Local Advisory Board
- Sec. 7-4-30 Removal of noxious weeds; declaration of public nuisance
- Sec. 7-4-40 Unlawful growth of non-noxious weeds; declaration of public nuisance
- Sec. 7-4-50 Enforcement
- Sec. 7-4-60 Notice and assessment
- Sec. 7-4-70 Payment of assessment
- Sec. 7-4-80 Certification to County Treasurer
- Sec. 7-4-90 Alternative enforcement
- Sec. 7-4-100 Procedures and remedies not exclusive

Article V Animals and Fowl

- Sec. 7-5-10 Definitions
- Sec. 7-5-20 Rabies vaccination required
- Sec. 7-5-30 Licensing, collar and rabies tag required
- Sec. 7-5-40 Powers and duties of dog warden and police officers
- Sec. 7-5-50 Interference with dog warden or police officer unlawful
- Sec. 7-5-60 Seizure and immediate destruction
- Sec. 7-5-70 Impoundment
- Sec. 7-5-80 Hearing on disposition of seized animals
- Sec. 7-5-90 Financial bonding for cost of holding impounded animals
- Sec. 7-5-100 Destruction or seizure on court's order
- Sec. 7-5-110 Prosecution
- Sec. 7-5-120 Penalties
- Sec. 7-5-130 Immunity from liability

Article VI Animal Owner Responsibilities and Public Health

- Sec. 7-6-10 Reporting of animal bites and confinement
- Sec. 7-6-20 Removal of dog feces
- Sec. 7-6-30 Cleanliness of premises
- Sec. 7-6-40 Unsanitary, noisy animals prohibited
- Sec. 7-6-50 Animals at large; penalty
- Sec. 7-6-60 Disposition of wild animals
- Sec. 7-6-70 Disposition of dead animals
- Sec. 7-6-80 Accumulation of animals

Article VII Animal Protection

- Sec. 7-7-10 Improper treatment prohibited
- Sec. 7-7-20 Abandonment of animals prohibited
- Sec. 7-7-30 Promotion of fights prohibited
- Sec. 7-7-40 Accidents involving animals
- Sec. 7-7-50 Trapping animals

Article VIII Offenses Related to Animal Behavior

- Sec. 7-8-10 Running at large
- Sec. 7-8-20 Vicious animals
- Sec. 7-8-30 Noisy dogs
- Sec. 7-8-40 Dogs in estrus
- Sec. 7-8-50 Guard dogs

Article IX Property Contaminated By Illegal Drug Laboratory

- Sec. 7-9-10 Purpose and applicability

- Sec. 7-9-20 Definitions
- Sec. 7-9-30 Owners of contaminated property
- Sec. 7-9-40 Occupancy of contaminated property
- Sec. 7-9-50 Inspection and testing
- Sec. 7-9-60 Contaminated properties deemed public nuisance

Article X

Smoking Regulations

- Sec. 7-10-10 Purpose and intent
- Sec. 7-10-20 Definitions
- Sec. 7-10-30 General smoking restrictions
- Sec. 7-10-40 Exceptions to smoking restrictions
- Sec. 7-10-50 Optional prohibitions
- Sec. 7-10-60 Enforcement and penalties

ARTICLE I

Administration and Abatement of Nuisances

Sec. 7-1-10. Definitions.

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

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.

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

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

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

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

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

Weed means an unsightly, useless, troublesome or injurious growing herbaceous plant, and shall include all rank vegetable growth which exhales unpleasant and noxious odors and also high and rank vegetable growth that may conceal filthy deposits. (Prior code 7-1)

Sec. 7-1-20. 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. (Prior code 7-2)

Sec. 7-1-30. Right of entry.

(a) The Chief of Police may enter upon or into any lot, house or other building or premises to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action or liability on account thereof.

(b) If entry is refused in a nonemergency situation, the Chief of Police may appear before any municipal judge of the Municipal Court, and upon his or her showing of probable cause, shall obtain a search warrant entitling him or her to enter said building or upon said premises. Upon presentation of said search warrant, the Chief of Police may enter into said building or upon said premises using such reasonable force as may be necessary to gain entry therein.

(c) Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Chapter, the Chief of Police may enter into any building or upon any premises within the jurisdiction of the City, whether the premises are occupied or unoccupied, and thereafter may proceed forthwith to enforce the provisions of this Chapter. In said emergency situation, the Chief of Police may use such reasonable force as may be necessary to gain entry into said building or upon said premises. For the purpose of this Subsection, an emergency situation shall include, but not be limited to, any situation where there is imminent danger of loss of life, limb or property, caused by explosive materials, disease, fire, structural weakness or any other condition which could cause such imminent danger. (Prior code 7-3)

Sec. 7-1-40. Filing complaint.

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any police officer or other City official against any person who violates any provision of this Chapter. (Prior code 7-4)

Sec. 7-1-50. Abatement of nuisance.

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

(b) In all cases where a nuisance shall be found in any building or upon any ground or other premises within the jurisdiction of the City, forty-eight (48) hours' notice shall be given, in writing, signed by the City Manager to the owner of said premises or the occupant or person in possession, charge or control of such building or other premises where he or she is known and can be found to remove such nuisance.

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

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

(e) The expense incurred by the City in abating any nuisance may be recovered by proper action against the author thereof. (Prior code 7-5)

Sec. 7-1-60. Obstructing abatement.

It is unlawful for any person to hinder, delay or obstruct any officer or other person in the discharge of any duty herein required. (Prior code 7-6)

Sec. 7-1-70. Notice to discontinue, abate or remove nuisances; enforcement.

(a) The City shall give written notice to the property owner and/or occupant of said property of any violation of this Chapter and shall give notice that said owner and/or occupant has two (2) days to discontinue, abate or remove any nuisance and comply with the requirements of this Chapter.

(b) In case of the failure of any owner of such lots, tracts or parcels of land to discontinue, abate or remove any nuisance as set forth in this Chapter within the time and in the manner prescribed herein, the City Manager may order a designee to discontinue, abate or remove from such lots, alleys and sidewalk areas all of such nuisance as may be necessary. The designee shall then proceed at once to have the work done accordingly. (Prior code 7-7)

Sec. 7-1-80. Report of costs.

Upon the completion of the work contemplated by Section 7-1-70 above, the designee shall report, in writing, to the City Manager, which report shall make a clear statement of the work done by the designee and the expense incurred in so doing, so that the City Manager may determine the cost of such work. The designee shall make a separate report for each lot or parcel of land. (Prior code 7-8)

Sec. 7-1-90. Assessment of property for costs.

After considering the report of the designee, the City Manager shall determine and assess the whole cost for the removal thereof, including five percent (5%) for the inspection and other incidental costs, including attorneys' fees incurred, in connection therewith upon the lots and tracts of land from which the nuisance is abated or removed. (Prior code 7-9)

Sec. 7-1-100. Notice of assessment.

The City Clerk, as soon as may be after such assessment is made, shall send, by certified mail with return receipt requested, addressed to the owner of such lots or tracts of land at the reputed post office address, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner and the amount of the assessment. (Prior code 7-10)

Sec. 7-1-110. Payment of assessment.

(a) It shall be the duty of the owner to pay such assessment or object thereto, in writing, within thirty (30) days after the receipt of such notice, and in case of his or her failure to do so, he or she shall be liable personally for the amount of the assessment. The same shall be a lien upon the respective lot or parcel of land from the time of such assessment, and the City shall have all remedies for collection thereof provided by state statutes, for the purpose of having the same placed upon the tax list and collected in the same manner as taxes are now collected or pursuant to Section 31-25-1101, C.R.S. The assessment shall be a lien against each lot or tract of land until it is paid and shall have priority over all other liens except general taxes and prior special assessments.

(b) The amount of such assessment may be paid to the City Clerk at any time before the tax list is placed in the hands of the County Treasurer, but thereafter only to the County Treasurer. (Prior code 7-11)

Sec. 7-1-120. Objection to assessment; hearing.

In the event any owner desires to object to said assessment, he or she shall, within thirty (30) days after the receipt of said notice, file a written objection thereto with the City Clerk, who shall thereafter designate a time not to exceed thirty (30) days from the date of the objection when said objector may appear and have a hearing before the City Manager or the City Manager's designee. (Prior code 7-12)

Sec. 7-1-130. Certified assessment.

In case the owner shall fail to pay such assessment or object thereto within the required time as provided above, then it shall be the duty of the City Clerk to proceed with collection activities pursuant to statute or ordinance or certify the amount of the assessment to the proper county officers, who shall collect the assessment as provided for by state law for the collection of delinquent general taxes. (Prior code 7-13)

Sec. 7-1-140. 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. (Prior code 7-14)

Sec. 7-1-150. Concurrent remedies.

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under the municipal ordinances or any other provision of law. (Prior code 7-15)

Sec. 7-1-160. Author of nuisances.

Any state of things prohibited by this Chapter shall be deemed to be a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed to be the author thereof. (Prior code 7-16)

Sec. 7-1-170. Constitution of separate offense.

In the case of any nuisance in or upon any street, alley or other public or private grounds, the author thereof shall be guilty of a separate offense for every period of forty-eight (48) hours' continuance thereof after notice given to abate the same. (Prior code 7-17)

Sec. 7-1-180. Violations and penalties.

Any person who shall violate any of the provisions of this Chapter shall be subject to the provisions of Section 1-4-20 of this Code. (Prior code 7-18)

ARTICLE II

Nuisances

Sec. 7-2-10. Common law nuisances.

Any nuisance which has been declared to be such by state courts or statutes or known as such at common law shall constitute a nuisance in the City, and any person causing or permitting any such nuisance shall be in violation of this Chapter. (Prior code 7-41)

Sec. 7-2-20. Dangerous conditions.

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. (Prior code 7-42)

Sec. 7-2-30. Public nuisances prohibited generally.

(a) The maintenance of a public nuisance, as defined herein, within the jurisdictional limits of the City is prohibited.

(b) Definition. In addition to those nuisances enumerated elsewhere in this Chapter, a *public nuisance* is a substance, act, occupation, condition or use of property, public or private, which is of such nature and continues for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (2) In any way render the public insecure in life or the use of property; or
- (3) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway or other public way. (Prior code 7-43)

Sec. 7-2-40. 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, unless such uses have been specifically approved in an area specifically zoned by the Zoning Ordinance of the City for said purposes or otherwise designated by the City for such purposes, the existence of any such material or items shall constitute a nuisance and shall be in violation of this Chapter. (Prior code 7-44)

Sec. 7-2-50. Littering.

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

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

(c) It shall be unlawful for any person operating a vehicle or being a passenger in any vehicle to throw or cause to be thrown from such vehicle onto any public highway, thoroughfare, street, sidewalk or other public place in the City any rubbish or trash, fruit or fruit particles, wrappers, containers, paper, paper products, bottles, glass, cans, hulls, handbills, confetti, shavings, shells, stalks, animals, cloth or any other material of any kind which would render such public highway, thoroughfare, street, sidewalk or other public place unsightly, unsafe, unclean or unsanitary.

(d) The owner or person in control of any private property shall at all times maintain the premises free of litter. No person shall throw or deposit litter on any private property in the City, whether owned by such person or not; provided, however, that the owner or person in control of private property may maintain authorized private receptacles for the deposit of rubbish or other waste materials in such a manner that waste materials will be prevented from being carried or deposited onto any public or private property. (Prior code 7-45)

Sec. 7-2-60. Use of property for dumping unlawful.

It shall be unlawful for any person to use any land, premises or property within the City for the dumping or disposal of any garbage, trash, litter, rubbish, offal, filth, excrement, discarded building materials or combustible materials of any kind without first having made application for and receiving a permit to do so. The application therefor shall be filed with the City Manager or 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 Manager or City Clerk shall issue such a permit upon the payment of a fee in the sum of four dollars (\$4.00), with the approval of the City Council. (Prior code 7-46)

Sec. 7-2-70. Slaughterhouse.

No slaughterhouse or other place for slaughtering animals shall be kept within the City. (Prior code 7-47)

Sec. 7-2-80. Keeping green hides.

No person shall keep in the City any green, unsalted hides for a period exceeding twenty-four (24) hours. (Prior code 7-48)

Sec. 7-2-90. Nauseous liquids on street.

No person shall, himself or herself or by another, in the City, discharge out of or from or permit to flow from any house, shop, factory or other house or place, foul or nauseous liquid or substance of any kind whatever, into or upon any adjacent ground or lot, or into any street, alley or public place. (Prior code 7-49)

Sec. 7-2-100. Putrid fat rendering.

No person shall keep, collect, use or cause to be kept, collected or used, in the City, any stale, putrid or stinking fat or grease or other matter, or render or fry out the same. (Prior code 7-50)

Sec. 7-2-110. Clogging sewers.

No person shall in the City deposit in or throw into any sewer, sewer inlet or privy vault that shall have a sewer connection, any article whatever that might cause the sewer or sewer inlet to choke up, or that might cause such sewer, sewer inlet or privy vault to become nauseous or offensive to others or injurious to public health. (Prior code 7-51)

Sec. 7-2-120. Stagnant ponds.

Any cellar, vault, drain, sewer, pond of water or other place upon or within any private premises or grounds, in the City, that shall be 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 Section applies in all cases for which no other specific provisions are made in this Chapter or any other ordinance of the City. (Prior code 7-52)

Sec. 7-2-130. Unclean stables.

Any corral, barn, stable, pen or other place in the City where horses, cattle, sheep, swine or other animals shall be kept, that shall be nauseous or offensive to others, or injurious to the public health, shall be deemed a nuisance. (Prior code 7-53)

Sec. 7-2-140. Deposit of noxious substances on streets and in water sources.

No person shall throw or deposit, or cause or permit to be thrown or deposited, any offal composed of animal or vegetable substances, or both, any dead animal, excrement, garbage, sewage, oil, tailings or other offensive matter whatever, upon any street, avenue, alley, sidewalk, parking lot or public grounds. No person shall in the City throw or deposit, or cause or permit to be thrown or deposited, anything specified in any foregoing part of this Section, or any other substance that would tend to have a polluting effect, into the water of any stream, ditch, pond, well, cistern, trough or other body of water, whether artificially or naturally created, or so near any such place as to be liable to pollute the water. This Section applies only to cases of the kind specified herein, for which no other provisions are made in the City ordinances. (Prior code 7-54)

Sec. 7-2-150. Removal of dead animals.

(a) When any animal shall die in the City, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith. If such body shall not forthwith be removed, the same shall be deemed a nuisance, and such owner or keeper the author of a nuisance.

(b) When the body of any such dead animal shall be in any street, highway or public grounds, in the City, it shall be the duty of the Chief of Police to cause such body to be removed forthwith. (Prior code 7-55)

Sec. 7-2-160. Hawking, soliciting of business.

(a) Regulation of Sales of Goods or Services. Sales of goods or services upon the streets, highways, sidewalks and other public places in the City shall be subject to the following regulations:

(1) A permit issued by the City shall be required for the sale of all goods or services upon the streets, highways, sidewalks and other public places within the City. Application for such permit shall be upon a form designated by the City, which application shall contain the following information:

a. The name, address and telephone number of the person, company or other entity applying for the permit;

b. The proposed dates, times and locations within the City where sales will be conducted.

c. The names and addresses of all persons who will be employed or engaged in the selling of goods or services.

d. A proposed business plan listing the goods or services to be sold and listing any equipment, signage or other materials used in conducting any sales.

e. Proof of compliance with all other appropriate federal, state and local laws, regulations, licenses or permits.

f. Any additional information deemed necessary or appropriate by the City Manager to carry out the intent of this Section.

(2) After a permit is issued, it is the responsibility of the permit holder to ensure that all information submitted on the application is maintained in a current and accurate fashion. Copies of permits shall be made available by those engaged in selling for inspection by City police officers.

(3) The City Manager shall charge a fee of one hundred dollars (\$100.00) for each permit issued, which fee may be changed by resolution of City Council.

(4) The City Manager may waive or modify the requirements of this Subsection stated above for the purpose of granting temporary permits for special events held within the City.

(5) All permits issued pursuant to this Subsection are nontransferable and may be suspended or revoked for failure to comply with any of the requirements established by this Section.

(6) The sale of goods or services upon the streets, highways, sidewalks and other public places in the City may be further governed by Chapter 6 of the City of Central Municipal Code concerning business licenses and regulations.

(b) Other restrictions. It shall be unlawful to engage in the hawking or soliciting of business or to conduct business or sales of goods or services upon the streets, highways, sidewalks and other public places in the City in a manner that:

(1) Impedes or interferes with the free flow of pedestrian, vehicular or other traffic.

(2) Takes place in front of, or on property owned or controlled by other businesses without the express consent of the owner or person controlling said property.

(3) Employs more than two (2) solicitors from the same business or other entity who are soliciting at the same time and within one hundred (100) feet of each other.

(4) Uses any electrical, electronic and/or other device of any kind to amplify the solicitor's voice.

(5) Misleads or deceives the public or advertises an activity or transaction that is illegal.

(c) Abatement. Any violation of this Section is hereby declared to be a public nuisance and unlawful and as such shall be abated. The police of the City may abate the same forthwith without notice given. Any officer who shall be duly authorized to abate any such nuisance shall have the authority to engage the necessary assistance and incur the necessary expense thereof. The expense incurred by the City in abating any nuisance may be recovered back by proper action from the creator thereof.

(d) Penalty. Any person failing to comply with this Article shall be subject to the fines and penalties set forth in Section 1-4-20 of this Code and such other injunctive or other relief available to carry out the purposes and intent of this Article. (Prior code 7-56)

Sec. 7-2-170. Control of dust-producing area.

It shall be unlawful and a nuisance for any person to own, possess or control any cleared area, parking lot, vacant lot or other site used by vehicular traffic, or own, possess or control any open pit, storage or stockpile area, without implementing an effective abatement or preventive fugitive dust control measure, as may be required, which may include, but is not limited to, the following:

- (1) Wetting down of the dust-producing area.
- (2) Landscaping.
- (3) Covering, shielding or enclosing.
- (4) Paving on a temporary or permanent basis.
- (5) Treating through the use of palliatives and chemical stabilization. (Prior code 7-57)

Sec. 7-2-180. Geologic hazard areas.

(a) It is unlawful and constitutes a nuisance for any person to aggravate any geologic hazard area of the City, as defined herein, by means of disturbing vulnerable rock slopes or unstable soil slopes, where such disturbances would cause rockfalls and/or landslides damaging to either life or property.

(b) Definition. A *geologic hazard area* is a geologic phenomenon which is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety. This includes but is not limited to landslide, rockfall, mudflow and creep. (Prior code 7-58)

Sec. 7-2-190. Offensive and dangerous businesses.

(a) Any offensive or unwholesome establishment or any business or establishment carried on in an offensive or unwholesome manner within the City is a nuisance and prohibited, and the City Council or the Chief of Police shall have the power to abate the same.

(b) The following businesses, trades or conditions shall be considered nuisances and prohibited within the City, including but not limited to the following:

- (1) The storage of gunpowder and other high explosives in violation of the provisions of the adopted Fire Code.
- (2) The location and construction of slaughterhouses, packing houses, renderies, tallow candleries, bone factories, soap factories, tanneries or dairies, without the approval of the City Council.
- (3) Any activity which involves the use of slaughterhouses, privy vaults, pig sties and breeding pens.
- (4) Bawdy and disorderly houses of ill fame and assignation. (Prior code 7-59)

Sec. 7-2-200. Violations of building codes and municipal zoning ordinance.

It is unlawful and constitutes a nuisance for any person to maintain any property, building or other structure in the City in a condition which is in violation of the building codes or fire code of the City. It is similarly unlawful and constitutes a nuisance for any person to maintain any property, building, sign or other structure in a condition which violates or otherwise does not conform with an approval granted pursuant to the zoning ordinance, the historic preservation ordinance, the demolition ordinance or the sign ordinance. (Prior code 7-60)

Sec. 7-2-210. Maximum permissible noise levels.

(a) Sound levels of noise radiating from a property line at a distance of twenty-five (25) feet or more therefrom in excess of the db(A) established for the following time periods and zones shall constitute prima facie evidence that such noise is a nuisance and prohibited within the jurisdictional limits of the City:

<i>City Zone District</i>	<i>7:00 a.m. to next 7:00 p.m.</i>	<i>7:00 p.m. to next 7:00 a.m.</i>
Limited Density Residential	55 db(A)	50 db(A)
Medium Density Residential	55 db(A)	50 db(A)
High Density Residential	55 db(A)	50 db(A)
Transitional	55 db(A)	50 db(A)
Historic Downtown Gaming	60 db(A)	55 db(A)
Gregory Gulch Gaming	60 db(A)	55 db(A)
Limited Community Commercial	60 db(A)	55 db(A)
General Purpose Commercial	70 db(A)	65 db(A)
Resource District	70 db(A)	65 db(A)

(b) Definitions. For purposes of this Section, the following definitions shall apply:

db(A) means sound levels in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication S 1.4 – 1971, and approved by the Industrial Commission of Colorado.

Decibel is a unit to express the magnitude of a change in sound level. The difference in decibels between two (2) sound pressure levels is twenty (20) times the common logarithm of their ratio. In sound pressure measurements, sound levels are defined as twenty (20) times the common logarithm of the ratio of that sound pressure level to a reference level of 2×10^{-5} N/m² (Newton's/meter squared). As an example of the effect of the formula, a three-decibel change is a one-hundred-percent increase or decrease in the sound level, and a ten-decibel change is a one-thousand-percent increase or decrease in the sound level.

(c) For purposes of this Section, all mining activity shall be considered within the General Industrial Zone. (Prior code 7-61)

ARTICLE III

Garbage and Refuse

Sec. 7-3-10. General, definition.

For the purposes of this Chapter, the word *refuse* shall mean and include 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. (Prior code 7-81)

Sec. 7-3-20. Accumulation of refuse prohibited and declared nuisance.

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 7-82)

Sec. 7-3-30. Accumulation of refuse; abatement.

Whenever the City Council shall direct, the City Clerk shall immediately thereafter notify any owner of property, his or her agent or any person having charge of such property, in writing, that an order has been made by the City Council 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 shall not remove such refuse in accordance with the requirement of such order, the City Council may order that such refuse be removed by the City Clerk or other agent of the City Council and assess the cost thereof against the property or premises. The amount so assessed shall be a lien upon such property until the same is paid; provided that, in case of failure to pay such assessment within ten (10) days after the same shall be 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) successive weeks, which publication shall contain a notice to such property owner of the amount assessed against his or her property, and shall designate a time and place when the City Council will hear any objections as to the assessment 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 ten percent (10%) penalty to defray the cost of collection, as provided by state law. (Prior code 7-83)

Sec. 7-3-40. Responsibility of owners and lessees for refuse on premises.

It shall be the duty of every person, whether owner, lessee, renter, user or possessor 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. (Prior code 7-84)

Sec. 7-3-50. Removal of refuse from business required.

Discarded automobile parts, stoves, furniture, wool, hides, junkyard refuse and packing house or slaughterhouse refuse shall be removed periodically from such respective establishments by the proprietor so that the premises are clean and orderly at all times. Silt and similar deposits from automobile wash racks shall be removed to the City dump by the establishment creating such deposit. Any accumulation of refuse that is highly explosive or inflammable which might endanger life or property shall be removed to such places as approved by the Chief of Police or the Fire Chief. Such removal shall be handled by the establishments responsible therefor. (Prior code 7-85)

Sec. 7-3-60. Unauthorized use of trash Dumpsters.

(a) It shall be unlawful for any person to put, place or dump garbage, trash, refuse or waste material of any kind in, on, under or around the garbage or refuse Dumpster owned, leased or maintained by another except when express consent for use is granted by the owner or lessee of the Dumpster.

(b) The owner or lessee may place restrictions on the use of any Dumpster, including but not limited to hours of use and/or types of refuse to be deposited. For purposes of this Section, *Dumpster* shall mean an exterior waste container designed to be mechanically lifted by and emptied into or carted away by a collection vehicle.

(c) Violations of this Section are punishable by a fine not to exceed the maximum fine authorized by Section 1-4-20 of this Code. (Prior code 7-86; Ord. 13-08 §4, 2013)

Sec. 7-3-70. Unlawful placement of residential garbage or recycling containers.

It shall be unlawful to place residential garbage or recycling containers within a front yard setback or in the public right-of-way or out for collection at any time earlier than 4:00 a.m. on the scheduled date of collection. All such containers shall be removed from those locations by 9:00 p.m. on collection day. (Ord. 12-17 §1, 2012)

ARTICLE IV

Weed Regulation and Control

Sec. 7-4-10. Definitions.

Unless otherwise specified or the context otherwise requires, the following words, terms and phrases shall have the following meanings throughout this Article:

Non-noxious weed means any plant which is not classified as a noxious weed, which is not intentionally cultivated or which is unsightly and economically useless.

Noxious weed means any plant or part thereof which has been classified by the Commissioner of the Colorado Department of Agriculture as a "List A" or "List B" noxious weed under the provisions of Section 35-5.5-108, C.R.S., as amended.

Person means any natural person or public or private entity, including but not limited to a corporation, firm, partnership, limited liability company, unincorporated association, joint venture, business entity of any nature, estate, trust, receiver or trustee.

Right-of-way means all public streets, roads, alleys, sidewalks, public easements and tracts, or other public thoroughfares. (Ord. 13-04 §1, 2013)

Sec. 7-4-20. Local Advisory Board.

There is hereby created a Noxious Weed Advisory Board (the "Board"). Until such time as successor members of the Board are appointed by City Council, initial members of the Board shall consist of all members of the City Council. The Board shall possess and exercise the duties and authority of a local advisory board as provided by Section 35-5.5-107, C.R.S. The City Council may by resolution appoint successor members to the Board. In accordance with Section 35-5.5-107(1), C.R.S., members of the Board shall be residents of the City. (Ord. 13-04 §1, 2013)

Sec. 7-4-30. Removal of noxious weeds; declaration of public nuisance.

(a) All owners and occupants of land within the City shall maintain such property free from noxious weeds, including any alleys behind and sidewalk areas in front or on the side of any lot or tract of land. Disposal of the noxious weeds will be performed in a manner which will minimize the reproduction of the noxious weeds.

(b) Any noxious weeds found growing in any lot or tract of land in the City is hereby declared to be a nuisance, and it shall be unlawful to permit any such noxious weeds to grow or remain in any such place.

(c) Noxious weeds shall be controlled by cutting, spraying or other lawful and suitable method of control, including eradication, containment and/or suppression, as appropriate and as deemed by the City to be consistent with Section 35-5.5-101, et seq., C.R.S. (Ord. 13-04 §1, 2013)

Sec. 7-4-40. Unlawful growth of non-noxious weeds; declaration of public nuisance.

(a) It is unlawful for any person having ownership or possession of any real property within the City to permit the growth of non-noxious weeds upon any lot or tract, including any adjacent or abutting sidewalks, alleys and areas between the back of curb and edge of pavement of public rights-of-way.

(b) Any non-noxious weeds found growing in any lot or tract of land in the City is hereby declared to be a nuisance, and it shall be unlawful to permit any such non-noxious weeds to grow or remain in any such place.

(c) 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 non-noxious weeds when said non-noxious weeds grow to a height of twelve (12) inches or more.

(d) Non-noxious weeds shall be controlled by cutting, spraying or other lawful and suitable method of control, including eradication, containment and/or suppression, as appropriate.

(e) All non-noxious weeds cut in accordance with Subsection (c) above shall, immediately upon being cut, be removed from the City or otherwise entirely destroyed by the owner of the lot or tract of land upon which the non-noxious weeds have been cut.

(f) The City Council may, by resolution, exempt certain areas in the City, whether publicly or privately owned, from the non-noxious weed prohibitions contained in this Article if the City Council determines that such areas are: natural open space, passive common areas, conservations areas, erosion control areas or utility, irrigation or drainage ditch rights-of-way. (Ord. 13-04 §1, 2013)

Sec. 7-4-50. Enforcement.

(a) The City, through its employees and authorized agents, shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours upon verbal permission of the landowner or occupant for the purpose of inspecting for the existence of noxious or non-noxious weeds, when at least one (1) of the following circumstances has occurred:

- (1) The landowner or occupant has requested an inspection;
- (2) A neighboring landowner or occupant has reported a suspected noxious or non-noxious weed infestation and requested an inspection; or
- (3) A City employee or authorized agent has made a visual observation from a public right-of-way or area and has reason to believe that a noxious or non-noxious weed infestation exists.

(b) If verbal permission to inspect the land by the landowner is not obtained, no entry upon any premises, lands or places shall be permitted until the landowner or occupant has been notified by certified mail that such inspection is pending. Where possible, inspections shall be scheduled and conducted with the concurrence of the landowner or occupant.

(c) If after ten (10) business days with no response from the landowner or upon denial of access by the landowner before expiration of the ten (10) business days, the City may seek an inspection warrant issued by a municipal, county or district court having jurisdiction over the property. The court shall issue an inspection warrant upon presentation by the City of an affidavit stating: the information which gives the City reasonable cause to believe that any provision of this Article is being or has been violated; that the occupant or landowner has failed to respond or has denied access to the City; and a general description of the location of the affected land. No landowner or occupant shall deny access to such land when presented with an inspection warrant. (Ord. 13-04 §1, 2013)

Sec. 7-4-60. Notice and assessment.

(a) Any person who violates this Article shall be served a written notice of violation. Service of the notice may be by first-class mail properly addressed to the dwelling or building located on the lot or tract of land upon which a violation of this Article occurs; by a conspicuous posting of a notice of violation upon the property or building located on the lot or tract of land upon which a violation of this Article occurs; or by personal service upon a natural person over the age of eighteen (18) years who occupies a dwelling or building or a lot or tract of land upon which a violation of this Article occurs.

(b) If a notice of violation cannot be served in any manner specified above, the notice of violation shall be sent by first-class mail to the address of the owner of record of such lot or tract of land as shown in the records of the County.

(c) The notice will state that the non-noxious weeds must be cut to a height less than twelve (12) inches or the noxious weeds removed within ten (10) business days from the date of the notice and, if not so cut or removed by the owner or occupant, the City will cut the non-noxious weeds or remove the noxious weeds and assess the whole cost thereof, including ten percent (10%) for inspection, administration and other incidental costs, upon the lots or tracts of land from which the non-noxious weeds or noxious weeds are controlled or removed.

(d) The City will serve such a notice on the same violator only once during any calendar year. Thereafter, in the event of a subsequent violation by the same person within the same calendar year, the City will cut the non-noxious weeds or remove the noxious weeds and assess the whole cost thereof, including ten percent (10%) for inspection, administration and other incidental costs, upon the lots or tracts of land from which the non-noxious weeds or noxious weeds are controlled or removed, without serving an additional notice on the violator. (Ord. 13-04 §1, 2013)

Sec. 7-4-70. Payment of assessment.

(a) The City will send a statement of costs to the owner of record by first-class mail. The amount of the costs in the statement is due and payable by the owner of record to the City within thirty (30) days from the date of the statement. If the amount is not paid by the date due, interest on any unpaid balance due to the City shall accrue at the legal rate specified in Section 5-12-101, C.R.S.

(b) The City is authorized to record a statement of lien with the County Clerk and Recorder if the assessment is not paid by the owner within thirty (30) days from the date of the statement. Such lien shall have priority over all other liens except general taxes and prior special assessments. (Ord. 13-04 §1, 2013)

Sec. 7-4-80. Certification to County Treasurer.

If the owner of record fails to pay the amount specified in the statement of costs, the City may certify the amount due and owing to the County Treasurer for collection of the assessment. The County Treasurer shall collect the assessment, together with a ten-percent penalty for the cost of collection, in the same manner as other taxes are collected. (Ord. 13-04 §1, 2013)

Sec. 7-4-90. Alternative enforcement.

The City may pursue the remedies set forth herein with or without also filing a complaint in the Municipal Court, at the City's sole discretion, for violation of this Article. (Ord. 13-04 §1, 2013)

Sec. 7-4-100. Procedures and remedies not exclusive.

The procedures and remedies set forth in this Article are not exclusive and the City may utilize the procedures and remedies set forth in the Colorado Noxious Weed Act, Section 35-5.5-101, et seq., C.R.S., in addition to or instead of the procedures and remedies set forth in this Article. In addition, the City may proceed, in its discretion, to abate the growth of any noxious weeds and non-noxious

weeds found to be in violation of this Article in accordance with Article I of Chapter 7 of this Code, as the same may be amended from time to time. (Ord. 13-04 §1, 2013)

ARTICLE V

Animals and Fowl

Sec. 7-5-10. Definitions.

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

Animal means any live vertebrate creature, domestic or wild.

Animal shelter means the City designated facility for the boarding and disposition of any animal impounded under the provisions of this Chapter or any other ordinance or law of the State. The City may designate other facilities as necessary for the boarding of impounded livestock, wildlife or exotic species that the shelter is unable to confine safely or humanely.

Cat means any member of the species *Felis catus*, regardless of sex.

Dog means any member of the species *Canis familiaris*, regardless of sex.

Dog warden/Code Enforcement Officer means a person designated by the City Manager to enforce Articles V through VIII of this Chapter.

Keeper means any person who is in possession of or is keeping, harboring or caring for any animal.

Keep(ing) means to care for, to have custody of, to provide a premises to which the animal regularly returns for food and shelter, or to exercise physical control over or to have any right of property in an animal or to own, harbor or allow an animal to remain about any premises within the City.

Owner or *keeper* means a person over the age of eighteen (18) or an emancipated child who keeps an animal. The parent, guardian or legal custodian of any unemancipated child under the age of eighteen (18) years who keeps an animal shall be deemed to be the owner or keeper of such animal.

Spayed female means any female dog or cat on which an ovariectomy or ovariectomy has been performed by a veterinarian and for whom the owner or keeper shall furnish a certificate certifying that such operation has been performed.

Tether means to tie up or chain to a fixed or heavy inanimate object so as to restrict the free movement of an animal to a distance no greater than the length of its leash or chain.

Vaccinate or *vaccinate against rabies* means the inoculation of a dog or cat with a vaccine licensed by the United States Department of Agriculture for use in the prevention of rabies.

Veterinarian shall be a professional licensed to practice veterinary medicine by the State of Colorado.

Wild animal means all species of animals which exist in their natural, unconfined state and are usually not domesticated. (Prior code 7-121)

Sec. 7-5-20. Rabies vaccination required.

(a) Every dog, cat and ferret aged six (6) months or older shall be vaccinated by a veterinarian against rabies. Vaccinations must be kept current on an annual basis thereafter. Any owner or keeper of a dog or cat aged six (6) months or older brought into the City shall secure a rabies vaccination for said animal within ten (10) days after bringing the animal into the City or within ten (10) days after the dog or cat reaches six (6) months of age, whichever occurs later.

(b) A certificate of vaccination shall be completed by the veterinarian, one (1) copy to be issued to the dog or cat owner, and shall be presented upon demand to any dog warden or police officer of the City. A rabies tag shall also be issued by the veterinarian to the owner or keeper of the dog, who shall comply with Section 7-5-30 of this Code.

(c) It shall be unlawful for any person to keep any dog or cat which has not been properly vaccinated for rabies or which cannot be identified as having a current certificate of vaccination, as required by this Section. (Prior code 7-122)

Sec. 7-5-30. Licensing, collar and rabies tag required.

(a) The owner or keeper of any dog within the City shall secure a license for such dog from the City Clerk on or before March 1 of each year, or within thirty (30) days of the time the animal reaches four (4) months of age or is brought into the City, whichever occurs later. The provisions of this Section shall not apply to dogs whose owners or keepers are nonresidents, temporarily located within the City for a period of ninety (90) days or less, nor to dogs brought into the City for purposes of exhibits, designated as "seeing eye" or "hearing dogs" or used to assist blind or deaf persons.

(b) The dog license fees shall be established by resolution of the City Council.

(c) It shall be unlawful for the owner or keeper of any dog or cat within the City to fail to cause such dog or cat to wear at all times while off the premises of the owner or keeper a collar made of durable material with legible and current identification attached thereto, containing words, numbers or a combination thereof which enables the dog warden or any law enforcement officer to readily ascertain the name, current home address and current home telephone number of the owner or keeper. Said identification may be in the form of a durable tag affixed to the collar or harness of such dog or cat, a microchip surgically implanted into such dog or cat or other similar type of identification.

(d) It shall be unlawful for the owner or keeper of any dog or cat within the City to fail to cause such dog or cat to wear at all times while off the premises of the owner or keeper a collar made of durable material with a valid current rabies tag attached thereto, which tag shall be furnished by a veterinarian, the number of such tag corresponding with the number of the rabies certificate issued to the owner or keeper of the dog.

(e) Any dog or cat found uncollared and untagged in violation of this Section may be seized and impounded by the dog warden or any police officer, and the owner or keeper of any such dog may be notified to procure a valid rabies vaccination tag and/or license for the same within four (4) days of the date of such notice. The date of notice shall be either the date the owner or keeper is provided notice or the date that the dog warden or animal shelter makes reasonable efforts to ascertain and provide the owner or keeper with such notice. Dogs or cats impounded under this Section may be released to the owner or keeper from impound upon presentation of the appropriate tags or license at the shelter. Presentation of such tags or license shall not affect the liability of such owner or keeper for violation of Subsection (c) or (d) of this Section. In the event the owner or keeper fails to present such tags or license at the animal shelter, an animal impounded under this Section may be disposed of in accordance with Subsection 7-5-70(b) after a period of not less than five (5) days from the date of impound or four (4) days from the date of notice, whichever is longer. (Prior code 7-123)

Sec. 7-5-40. Powers and duties of dog warden and police officers.

(a) The dog warden is hereby designated as any peace officer or civilian Code Enforcement officer. The dog warden and police officers of this City shall have the power and duty to enforce all sections of this Chapter or any other ordinance or law of the State pertaining to animals. In the furtherance of such duties, such officers may issue, sign and serve summons and complaints in order to enforce the provisions of this Chapter.

(b) The dog warden, or the dog warden's designee, shall keep accurate and detailed records of the impoundment and disposition of all animals coming into custody and of all reports of any animal bites reported to the dog warden or Police Department.

(c) It shall be lawful for any dog warden or police officer to go upon private property to capture any animal to be impounded for, or to investigate any report of, a violation of this Chapter if:

- (1) The officer has obtained consent of the person in possession of the property;
- (2) The officer has obtained a search warrant pursuant to Rule 241 of the Colorado Municipal Court Rules;
- (3) The officer is in pursuit of an animal which is or has been running at large;
- (4) The officer is in pursuit of an animal which the officer has probable cause to believe has bitten a person; or
- (5) The officer is attempting to abate a continuing, documented violation when the owner of the property is not available.

Nothing in Paragraphs (3), (4) or (5) above shall be deemed to authorize entry into any enclosed building on private property.

(d) If an affidavit has been submitted to the Municipal Judge which satisfies the Judge that an animal is located within the City which is the subject of a violation of this Chapter and that the animal either poses a clear and present danger to the health, general welfare or safety of other persons or animals or is suffering extreme neglect or cruelty, the Municipal Judge may order the animal seized

by a designated officer of the City pursuant to Rule 241 of the Colorado Municipal Court Rules. The animal owner or keeper may request a hearing concerning any such order for seizure entered pursuant to this Section by filing an appropriate motion pursuant to Rule 241(e) of the Colorado Municipal Court Rules. Whenever an animal is seized by order of the Municipal Court or other court, the animal shelter shall not adopt, donate or euthanize the animal unless such action is permitted by a subsequent order of the same court which ordered the initial seizure.

(e) Notwithstanding Paragraph (c)(2) or (c)(6) above, if the dog warden or police officer has reasonable cause to believe that the keeping or maintaining of any animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the dog warden or police officer shall have the right immediately to enter and inspect the property or vehicle in or upon which the animal is kept, and may use any reasonable means required to effect such entry and make such inspection, whether the property or vehicle is occupied or unoccupied and whether permission to inspect has been obtained or not. If the property or vehicle is occupied, the dog warden or police officer shall first present proper credentials to the owner or occupant of the property or vehicle and demand entry, explaining his or her reasons therefor and the purpose of the inspection. Such entry shall be solely for the purpose of abating the violation and no evidence obtained during or as a result of such entry shall be admissible for purposes of prosecution. (Prior code 7-124)

Sec. 7-5-50. Interference with dog warden or police officer unlawful.

(a) It shall be unlawful for any person intentionally to interfere with, hinder, harass, molest, injure, obstruct or disobey a lawful order from any dog warden or police officer in the discharge of his or her official duties under this Chapter or other applicable law.

(b) It shall be unlawful for any person to fail to allow or to refuse entry to a dog warden or police officer demanding entry for purposes of inspection pursuant to Subsection 7-5-40(d). (Prior code 7-125)

Sec. 7-5-60. Seizure and immediate destruction.

(a) Any animal which (1) has caused injury to any person or animal, (2) has unprovokedly attacked any person or (3) otherwise meets the definition of a vicious dog as set forth in Section 7-8-20 and is found running at large, may be seized and impounded at the owner or keeper's expense by the dog warden or any police officer without notice to the owner or keeper. If, after making every reasonable attempt to seize such animal, including the solicitation of assistance from the animal's owner or keeper if such owner or keeper is immediately ascertainable and available, the officer determines that the animal cannot be seized without exposing the officer or other persons to danger of personal injury from the animal, and the animal presents a present danger to any person or other animal, it shall be lawful for the officer to sedate or destroy the animal without notice to the owner or keeper.

(b) When a veterinarian, dog warden or police officer has determined that an animal is critically ill or injured, is suffering extreme pain or has a poor prognosis for recovery, nothing in this Chapter shall be construed to prevent the immediate destruction of such domestic or wild animal. (Prior code 7-126)

Sec. 7-5-70. Impoundment.

(a) Any time the dog warden or a law enforcement officer has reasonable suspicion to believe an animal is the victim of any form of mistreatment under Article VII or has engaged in any form of prohibited behavior under Article VIII of this Chapter or any other ordinance or any law of the State, such animal may be taken into custody by any dog warden or police officer and impounded in a humane manner.

(b) Unless other timeframes are specifically provided for in this Chapter, any animal impounded which (1) is collared, tagged and healthy and which is not claimed within a six (6) day period or (2) is uncollared, untagged and healthy and which is not claimed within a three-day period, may be disposed of by the animal shelter, dog warden or Police Department. Disposal may be by adoption or donation at the sole discretion of the animal shelter. During the period of impoundment, the dog warden and Police Department shall make reasonable effort to ascertain and notify the owner or keeper. If the animal shelter determines that the animal is critically ill or injured, is suffering extreme pain and/or has a poor prognosis for recovery, the animal may be destroyed. Notwithstanding the other provisions of this Subsection, feral cats may be destroyed at the sole discretion of the animal shelter at any time three (3) days after impoundment.

(c) Any animal impounded or held as evidence pursuant to a "summons hold" shall be impounded pending the hearing set forth in Section 7-5-80 below. Any animal so impounded which is not claimed or for which financial bond is not paid as set forth in Section 7-5-90 below may be disposed of as set forth in Subsection (b) above. In no event shall said animal be released to the owner or keeper prior to service of a summons and complaint upon the animal owner or keeper.

(d) The owner or keeper of any impounded animal shall be responsible for the payment of all charges and fees, including those for impoundment, boarding, euthanasia, disposal, veterinary and all other services as needed. No impounded animal shall be released until the owner or keeper has paid or arranged to pay all such charges and fees. Failure of the owner or keeper of any impounded animal to claim such animal from the animal shelter within seven (7) days shall not relieve the owner or keeper from payment of all applicable charges and fees as established by the shelter. It shall be unlawful for any owner or keeper to fail to pay such fees and charges. (Prior code 7-127)

Sec. 7-5-80. Hearing on disposition of seized animals.

(a) Except for animals impounded for violation of Section 7-5-30 of this Article, whenever an animal is seized or impounded pursuant to this Chapter, the animal owner or keeper may be summoned before the Municipal Court on the next available court date following the seizure or impoundment to address only the issue of disposition of the seized and impounded animal. The City shall, when ascertainable, notify the owner or keeper in writing of the time, place and date and purpose of the hearing at least four (4) days before the hearing. Such hearings resulting from animal seizures or impoundments shall be given priority on the Municipal Court docket in order to minimize the expense to animal owners or custodians for impoundment of seized animals.

(b) If, on the date of the hearing (1) the duly notified owner or keeper does not appear, or (2) the dog warden or police officers have been unable to ascertain and serve the summons and complaint on the owner or keeper after making reasonable effort to do so, the court may proceed with the hearing as to the disposition of the animal.

(c) Formal rules of evidence as adopted by the Colorado Supreme Court shall not apply at such animal disposition hearings and any statements made at such hearings shall not be used as evidence at any prosecution trial. If the City establishes by a preponderance of the evidence that there is a reasonable likelihood of either (1) future mistreatment of the animal under Article VII hereof, or (2) future injury to persons, property or animals under Article VIII hereof, the court shall order the animal to remain impounded at the owner's expense until final disposition of the pending municipal charges. If the court determines that it is inappropriate to order the animal impounded, the court may order the animal returned to the owner and kept under such circumstances as will ensure the animal's safety or the safety of persons, property or other animals, as the case may be. (Prior code 7-128)

Sec. 7-5-90. Financial bonding for cost of holding impounded animals.

(a) The owner or keeper of an animal that has been ordered impounded after the hearing set forth in Section 7-5-80 above must post a bond with the Municipal Court in an amount sufficient to provide for the animal's care and keeping from the date of impound (to the extent any such charges remain outstanding as of the date of the hearing under Section 7-5-80) until the date set for trial on the pending municipal charges. Notice of such bond shall be given at the conclusion of the hearing to the owner or keeper allowing five (5) days for the posting of such bond.

(b) If the owner or keeper does not appear at the disposition hearing as set forth in Section 7-5-80 above, the City shall, if ascertainable, send notice of the bond amount to the owner or keeper allowing the owner or keeper five (5) days from the date of the notice to post such bond.

(c) If the owner or keeper fails to post the bond or cannot be ascertained by the City following reasonable efforts, the animal shall be deemed abandoned and the animal shelter may dispose of the animal at any time after the sixth day from the date of notice of the bond requirement. The date of notice shall be either the date the owner or keeper is provided notice or the date that the dog warden or animal shelter makes reasonable efforts to ascertain and provide the owner or keeper with such notice.

(d) At the end of the time for which expenses are covered by the bond, the animal shelter may determine disposition of the animal unless there is a court order prohibiting such disposition. The owner or keeper shall be liable for the cost of the care, keeping or disposal of the animal. (Prior code 7-129)

Sec. 7-5-100. Destruction or seizure on court's order.

(a) If a complaint has been filed in the Municipal Court against the owner or keeper of an animal for a violation of this Chapter, the Municipal Court may, upon making a finding that the animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner. Surrender of an animal by the owner or keeper thereof does not relieve or render the owner or keeper immune from the decision of the court, or to the fees, fines or other penalties which may result from a violation or violations of this Chapter.

(b) Any animal held pursuant to court order may be disposed of by the animal shelter if unclaimed by the owner or keeper within three (3) days following issuance of a court order authorizing the release of the animal.

(c) Trials involving charges resulting in animal seizures or impoundments shall be given priority on the Municipal Court docket in order to minimize the expense to animal owners or custodians for impoundment of seized animals. (Prior code 7-130)

Sec. 7-5-110. Prosecution.

(a) For the purpose of prosecution for violations of any section of Article V, VI, VII or VIII of this Chapter, it shall not be necessary in order to obtain a conviction to prove notice on the part of the owner or keeper of the animal in question that said animal was violating any of the sections of this Chapter at the time and place charged, it being the purpose of this Section to impose strict liability upon the owner or keeper of any animal for the actions, conduct and condition of such animal, unless the violation specifically provides otherwise.

(b) Each separate day or any portion thereof during which such violation of this Chapter occurs or continues shall constitute a separate offense and, upon conviction thereof, shall be punishable as herein provided. (Prior code 7-131)

Sec. 7-5-120. Penalties.

(a) The dog warden, police officer or City Attorney may recommend that one (1) or more special sanctions be levied against any animal owner or keeper convicted of any violation of this Chapter. This recommendation may be presented to the Municipal Court as a proposed condition of sentencing upon conviction and may be in lieu of or in addition to any other penalty permitted under this Code. The court may take into consideration the severity of the incident, the prior history of the owner or keeper, and the recommendation of the dog warden, police officer or City Attorney. Without in any way limiting the power of the Municipal Court, on its own motion, to impose special sanctions as it deems appropriate, special sanctions may include:

- (1) Construction of a secure animal enclosure (built to the recommended specifications and in compliance with City zoning requirements);
- (2) Spaying or neutering of the animal;
- (3) Obedience training/behavior modification;
- (4) Responsible pet ownership class;
- (5) Community service work;
- (6) Euthanasia of the animal;
- (7) Prohibition from owning animals for a specified period;
- (8) Use of humane training devices for behavior modification;
- (9) Inspections of premises where the animal is kept;
- (10) Restitution for costs of care rendered or shelter given at the animal shelter, costs of veterinary care and costs of medical treatment; and

(11) Treatment or counseling programs.

(b) Any person convicted within a two-year period of violating Section 7-5-30, 7-8-10 or 7-8-30 of this Chapter shall be fined twenty-five dollars (\$25.00) for the first offense, fifty dollars (\$50.00) for the second offense and a minimum of seventy-five dollars (\$75.00) with a court appearance required for all similar offenses thereafter.

(c) Unless the penalty is specifically set forth herein, any person convicted of violating the provisions of Article V, VI, VII or VIII of this Chapter shall be punishable by fine as set forth in Section 1-4-20 of this Code. (Prior code 7-132)

Sec. 7-5-130. Immunity from liability.

The City and its employees, the animal shelter and its employees and any veterinarian consulted pursuant to this Chapter shall be immune from liability for any actions taken pursuant to this Chapter. (Prior code 7-133)

ARTICLE VI

Animal Owner Responsibilities and Public Health

Sec. 7-6-10. Reporting of animal bites and confinement.

(a) The owner or keeper of any domesticated animal that has bitten any person so as to cause an abrasion of the skin shall immediately advise the Police Department or dog warden of that fact. Any such animal shall be immediately confined for a period of ten (10) days or longer on the advice of the attending veterinarian or the County Health Department. Confined animals shall have no contact with the public, and it shall be unlawful for any person to remove any confined animal from the designated quarantine location. Since they are not considered to be transmitters of the rabies virus, bites inflicted by rodents, rabbits, reptiles or fowl need not be reported pursuant to this Section.

(b) Confinement may be on the premises of the owner or keeper if deemed appropriate in the discretion of the attending veterinarian or the County Health Department, but must remain within the City for a minimum of ten (10) days. If not confined on the premises of the owner or keeper, confinement will be at the animal shelter, or in any veterinary hospital or boarding kennel within the City limits. Such confinement shall be at the expense of the owner or keeper. In the case of animals whose owner or keeper cannot be located, such confinement shall be at the animal shelter.

(c) The owner or keeper of any animal that has been reported as having inflicted a bite which caused an abrasion of the skin of any person shall, on demand of the dog warden or any police officer of the City, produce said animal for examination and confinement, as prescribed in this Section. If the owner or keeper of any such animal refuses to produce the animal, the owner or keeper shall be subject to immediate arrest if there is probable cause to believe the animal has inflicted a bite upon a person, that the owner or keeper is in possession of the animal and is willfully hiding or refusing to produce the animal upon such demand. Such persons shall be taken before a Judge of the Municipal Court, who may order the immediate production of the animal. If the owner or keeper of any such animal shall willfully or knowingly hide or refuse to produce the animal, each day of refusal to

produce the animal shall constitute a separate and individual violation of this Section. It shall be unlawful to give away, sell or remove any such animal from the City or destroy such animal before it can be properly confined by the dog warden or Police Department.

(d) Every physician and other medical practitioner who treats a person or persons for bites inflicted by animals shall report such treatment to the dog warden or Police Department within twenty-four (24) hours, giving the name, address and telephone number of such person or persons.

(e) The owner or keeper of any dog or cat shall inform the veterinarian before any rabies inoculation is given whether the subject dog or cat is under bite confinement or has inflicted a bite on any person within the last ten (10) days. It shall be the responsibility of any veterinarian to vaccinate any dog or cat over four (4) months of age that is presented in good health and has not inflicted a bite upon a person in the preceding ten (10) days. When an animal under quarantine has been diagnosed by a licensed veterinarian as being rabid, the veterinarian making such diagnosis shall immediately notify the county public health officer and advise him or her of any reports of human contact with said animal. If any animal under confinement dies while under observation, the dog warden or police officer or his or her agent shall immediately take action to obtain a pathological and inoculation examination of the animal. As soon as a diagnosis is made available, the dog warden or police officer shall notify the county public health officer of any reports of human contact with the animal.

(f) Animals known to have been bitten by or exposed to a rabid animal shall be immediately destroyed, or released upon proof of current rabies immunization and "booster injection" given by a licensed veterinarian at the expense of the owner or keeper. The owner or keeper of any animal released under this Section shall be required to keep said animal under quarantine for a period of six (6) months or as may be determined necessary by the county public health officer. (Prior code 7-141)

Sec. 7-6-20. Removal of dog feces.

(a) When any dog defecates upon any property other than that of the owner or keeper, including common areas of condominiums, townhouses, duplexes or apartments, it shall be the duty of the owner or keeper of such dog immediately to remove and properly dispose of such feces, as outlined herein.

(b) It shall be unlawful for any person to place animal feces in storm sewers or upon the property of another or to dispose of such feces in any manner except by depositing it in a toilet or a covered, fly-tight container normally used for garbage. (Prior code 7-142)

Sec. 7-6-30. Cleanliness of premises.

It is hereby declared to be a nuisance and it shall be unlawful for any person to allow the accumulation of feces on any premises owned, occupied or controlled by such person in the City, including any stable, stall, shed, compartment, apartment or any yard or appurtenance thereof to the extent that it creates an unsanitary, offensive or unhealthy condition. (Prior code 7-143)

Sec. 7-6-40. Unsanitary, noisy animals prohibited.

It shall be unlawful to own, keep, have in possession or allow in the City any fowl, cow, horse, pig, sheep, goat or other animal which by noise, odor, attraction of insects or rodents or creation of

other unsanitary conditions, causes harm, danger, detriment, injury, disturbance or undue annoyance to the health, peace, welfare, comfort, safety or property of the neighborhood or of the public in general. (Prior code 7-144)

Sec. 7-6-50. Animals at large; penalty.

All horses, cattle, donkeys, mules, swine, sheep, goats, geese, ducks and chickens running at large within the City are severally declared to be nuisances, and the owner or keeper of any such animals or poultry, who suffers or allows the same to run or be at large within the limits of the City, shall be deemed the instigator of a nuisance and shall, on conviction thereof, be fined as set forth in Section 1-4-20 of this Code. (Prior code 7-145)

Sec. 7-6-60. Disposition of wild animals.

The dog warden or any police officer of the City, at his or her discretion, is hereby authorized to apprehend any wild animal that may be at large within the City and causing damage to property or constituting a hazard to the public. Such wild animal may be impounded, released to appropriate keepers, relocated or destroyed in the event such animal poses an immediate threat to the public health and safety. (Prior code 7-146)

Sec. 7-6-70. Disposition of dead animals.

(a) It shall be unlawful for any owner or keeper of any animal to fail to dispose of a dead animal within twenty-four (24) hours of death by burial, incineration in a state approved facility, rendering or other state-approved means.

(b) It shall be unlawful to dump or abandon any dead animal on any public or private property within the City.

(c) If any animal dies on public property or on property other than that of the owner or keeper, it may be removed by the dog warden or police officer. The owner or keeper shall be responsible for disposal fees established by the animal shelter in addition to penalties for violation of Section 7-8-10 of this Chapter. (Prior code 7-147)

Sec. 7-6-80. Accumulation of animals.

No person or household shall own or have custody of more than:

- (1) Three (3) dogs of more than four (4) months of age;
 - (2) Four (4) cats of more than four months (4) of age; or
 - (3) A total of four (4) dogs and cats of more than four (4) months of age in any combination.
- (Prior code 7-148)

ARTICLE VII

Animal Protection

Sec. 7-7-10. Improper treatment prohibited.

(a) Cruelty. It shall be unlawful for any person to commit or cause to be committed any intentional or grossly negligent act of cruelty, abandonment, harassment or torture to any animal, including but not limited to beating or tormenting any animal, overdriving, overloading, driving when overloaded or overworking any animal, inhumanely trapping or capturing any animal or intentionally causing any animal to be wounded, mutilated, strangled or intentionally killed.

(b) Neglect. It shall be unlawful for the owner or keeper of any animal or any other person who is acting as temporary keeper of any animal to deprive such animal of adequate nutrition or potable water, proper protection from the elements and extremes in temperature, opportunity for exercise, adequate veterinary care, grooming, socialization or to otherwise neglect such animal in any manner as to endanger its health or cause it to suffer.

(c) Unsafe tethering. It shall be unlawful for the owner or keeper of any animal to tether any animal in such a manner that the animal may become entangled and unable to reach shelter or water, or in such a manner that the animal may be injured, strangled or otherwise caused to suffer.

(d) Unsafe transporting. It shall be unlawful for any person who has control of any animal to allow such animal to ride in or upon any motor vehicle in such a manner as to permit injury or endanger the life of said animal such as:

(1) Transporting any animal in an open vehicle in such a manner as to permit the animal to jump or be thrown therefrom by acceleration, sudden movement or accident involving the vehicle;
or

(2) Confining or transporting any animal in such a way that the animal is exposed to extremes in temperature or weather conditions.

For purposes of this Section, the operator of a motor vehicle shall be deemed to have control of any animals riding therein.

(e) Care of animals. It shall be unlawful for any owner, manager or employee of a pet shop, kennel, animal hospital or shelter to fail to maintain the facilities in a sanitary condition, provide proper heating and ventilation, provide space appropriate to the size, weight and species of animal, provide adequate nutrition, provide adequate veterinary care for all animals in their care or to fail to take reasonable care to release for sale, trade or adoption only those animals which are free of disease or injuries.

(f) Poisoning. It shall be unlawful for any person knowingly to poison any domesticated animal or livestock, or to knowingly distribute or set out poison or any other toxicant anywhere within the City in any manner whatsoever that causes the poisoning of any such animal. The distribution or setting out of any poison, toxicant or poisoned meat or food, other than those specifically for insect, bat, rat, mouse or other rodent poisoning, shall be prima facie evidence of violation of this Section.

The poisoning of insects, bats, rats, mice and other rodents shall conform to all applicable state and federal laws.

(g) Improper treatment of law enforcement animals. It shall be unlawful for any person to antagonize, agitate, interfere, beat, kick, strike, torture, torment, mutilate, injure, disable or kill any dog used by the Police Department when such dog is used in the performance of the functions or duties of such Police Department. (Prior code 7-151)

Sec. 7-7-20. Abandonment of animals prohibited.

It shall be unlawful for any person to abandon a dog, cat or other animal, either dead or alive, in the limits of the City. For purposes of this Section, *abandon* means leaving for more than twenty-four (24) hours without making effective provisions for proper care. This shall include, but is not limited to, depositing or dropping off an animal on public property or on property other than that of the owner or keeper without prior permission of the property owner. (Prior code 7-152)

Sec. 7-7-30. Promotion of fights prohibited.

It shall be unlawful for any person to cause, instigate or encourage any animal to fight with another of its own species or with another of a different species. It shall be unlawful to maintain any place where animals are permitted to fight for exhibition, for wager or for sport. For the purposes of this Section, a person encourages a fight between animals if such person:

- (1) Is knowingly present at such a fight;
- (2) Possesses equipment used to train or condition animals for fighting; or
- (3) Knowingly allows any such fight to occur on any property owned or controlled by him or her. (Prior code 7-153)

Sec. 7-7-40. Accidents involving animals.

If a person, while operating a motor vehicle, strikes any animal with such vehicle causing injury or death, it shall be unlawful for such person to fail to stop at once and immediately report such injury or death to the owner or keeper of such animal. In the event that the owner or keeper cannot be ascertained or located, the operator of the motor vehicle shall at once report such accident to the Police Department. (Prior code 7-154)

Sec. 7-7-50. Trapping animals.

(a) When deemed necessary by the dog warden or by a law enforcement officer of the City for the health, safety and welfare of the residents of the City, such officers or their agents may place a humane trap on the property of a resident of the City when the resident requests such trap for the purpose of capturing any wild or pet animal creating a nuisance in the City. It shall be unlawful for any person to fail to monitor any trap in accordance with any written trap agreement as provided by the City or with state law.

(b) The dog warden or other law enforcement officers of the City are authorized to use any tranquilizer guns, firearms, humane traps or other suitable devices to subdue or destroy any animal

that is deemed by such officer, in his or her discretion, to be a present danger to itself or to the public health and safety.

(c) It shall be unlawful for any person to set or cause to be set within the City any steel-jaw leghold trap, snare or any trap other than a humane trap.

(d) As used in this Section, *humane trap* means a box-type live trap which does not cause bodily harm to the animal intended to be captured or any other animal or person coming in contact with such trap. (Prior code 7-155)

ARTICLE VIII

Offenses Related to Animal Behavior

Sec. 7-8-10. Running at large.

(a) It shall be unlawful for the owner or keeper of any animal, excepting cats, to permit the same to run or go or be at large on any street or public place within the City, or upon the premises of any other person without prior written permission of such other person, unless the dog is accompanied by a person and is under control on a leash, cord or chain not more than ten (10) feet in length.

(b) It shall be unlawful to tether any animal on any property other than that of the owner or keeper without prior written permission of the property owner or occupant, or to allow any animal tethered on the property of the owner or keeper to have access to property other than that of the animal's owner or keeper.

(c) In addition to any other remedy provided by the City to prohibit the running at large of animals and fowl, any animal running at large may be seized and impounded in accordance with this Chapter. (Prior code 7-161)

Sec. 7-8-20. Vicious animals.

(a) It shall be unlawful to keep, possess or harbor a vicious animal within the City. A vicious animal is any animal that:

- (1) Causes bodily injury to any person at any place within the City;
- (2) Approaches any person in a menacing or terrorizing manner or in an apparent attitude of attack while off the owner's or keeper's property;
- (3) Attacks any person who is lawfully on the owner's or custodian's property;
- (4) Causes any physical injury that results in any puncture wound, severe bruising, muscle tear, skin laceration requiring medical treatment, fracture of any bone or any other injury that requires corrective surgery, or kills another domestic animal;
- (5) Runs after and, in a menacing or terrorizing manner, bites or barks at bicycles or any vehicle being ridden or driven on any public place within the City; or

(6) Engages in or has been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.

(b) As used in this Section, unless the context otherwise requires:

Attack means any violent or hostile physical contact with a person or any violent or hostile behavior that confines the movement of a person, including but not limited to chasing, cornering or encircling a person.

Bodily injury means any physical injury that results in a puncture wound, severe bruising, muscle tears, skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

Domestic animal means any dog, cat, ferret or livestock.

Livestock means animals commonly regarded as farm animals, including but not limited to cattle, horses, goats, llamas, ostriches and sheep, but excluding pet animals such as rabbits, poultry and domestic fowl.

(c) Affirmative defenses to a violation of this Section shall be:

(1) That, at the time of the attack which caused injury to or the death of a domestic animal, the domestic animal was at large and entered upon the property of the owner and the attack began, but did not necessarily end, upon such property.

(2) That, at the time of the attack which caused injury to or the death of a domestic animal, the animal victim was biting or otherwise attacking the vicious animal or its owner or keeper.

(3) That, at the time of the attack by the dangerous animal which caused injury to a person, the victim of the attack was committing or attempting to commit a criminal offense against the animal's owner or keeper, either on or off the owner's or keeper's property.

(4) That, at the time of the attack by the vicious animal which caused injury to a person, the victim of the attack was committing or attempting to commit a criminal offense against a person on the owner's or keeper's property and the attack began upon such property.

(5) That the person who was the victim of the attack by the vicious animal tormented, provoked, abused or inflicted injury upon the animal in an extreme manner which resulted in the attack.

(d) The affirmative defenses set forth in Subsection (c) above shall not apply to any animal that has engaged in or been trained for animal fighting, as said term is described in Section 18-9-204, C.R.S.

(e) The provisions of this Section shall not apply to the following:

(1) To any dog that is used by a peace officer while the officer is engaged in the performance of peace officer duties;

(2) To any animal that inflicts bodily injury to any veterinary health care worker, animal groomer, humane agency personnel, professional animal handler, trainer or animal show judge, each acting in the performance of his or her respective duties;

(3) To any dog that inflicts injury upon or causes the death of a domestic animal while the dog was working as a hunting dog, herding dog or predator control dog on the property of or under the control of the dog's owner and the injury or death was to a domestic animal naturally associated with the work of such dog; or

(4) To any conduct which constitutes a felony under state law.

(f) Impoundment of animals whose owners or custodians have been cited for violation of this Section shall be at the discretion of the dog warden or police officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the dog warden, police officer or his or her agent to impound such animal.

(g) Nothing in this Chapter shall be construed to prevent the dog warden or police officer from taking whatever action is reasonably necessary to protect his or her person or other members of the public from injury or damage, including immediate destruction of any vicious animal otherwise running at large, without notice to the owner or keeper. (Prior code 7-162)

Sec. 7-8-30. Noisy dogs.

(a) It shall be unlawful to keep a dog which, by loud, persistent or habitual barking, howling, yelping or other unreasonable noise, creates a serious annoyance or disturbance to the neighborhood or to people passing along the public streets or sidewalks.

(b) It shall not be a defense to a violation of this Section that: (1) the animal owner or keeper was not available to remedy such violation; or (2) the dog was provoked by persons by the ordinary or reasonable use of private properties, public roadways, sidewalks, alleyways or common areas of condominiums, townhouses or apartment buildings. (Prior code 7-163)

Sec. 7-8-40. Dogs in estrus.

Any unspayed dog in the stage of estrus (heat) shall be confined during such time in a house or secure and enclosed building, and said area of enclosure shall be so constructed that no male dog may gain access to the confined animal. When outside the house or enclosure for waste elimination, the unspayed dog must be physically restrained by a competent person by the use of a hand-held leash. The dog warden or police officer shall order any unspayed dog that is in the state of estrus and that is not properly confined, or any such dog that is creating a neighborhood nuisance, to be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner or keeper. Failure to comply with the order of the dog warden or police officer shall be a violation of this Chapter, and the unspayed dog will then be impounded as prescribed in this Chapter, subject to fines and charges as directed. (Prior code 7-164)

Sec. 7-8-50. Guard dogs.

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

- (1) They shall be under the complete control of a handler at all times; or
- (2) The dogs shall be confined to an enclosed area adequate to ensure that they will not escape; and
- (3) Warning signs shall be conspicuously posted indicating the presence of guard dogs and such signs shall plainly show a telephone number where some person responsible for controlling guard dogs can be reached at all times.

(b) For purposes of this Section, *guard dog* means any dog placed within an enclosure for the protection of persons or property by attacking or threatening to attack any person found within the enclosure patrolled by such dog. (Prior code 7-165)

ARTICLE IX

Property Contaminated by Illegal Drug Laboratory

Sec. 7-9-10. Purpose and applicability.

(a) Purpose. The purpose of these regulations is to ensure that chemical contamination of properties from the manufacturing of methamphetamine or other controlled substances is cleaned, or the properties demolished, to prevent harm to subsequent occupants, visitors and users of the properties and users of neighboring properties and to protect the environment. Except as expressly provided in this Article, these regulations are intended to supplement applicable state and Board regulations.

(b) Applicability. The requirements of this Article apply:

- (1) When an owner of property has received notification from a law enforcement officer that chemicals, equipment or supplies indicative of a drug laboratory are located at the property; or
- (2) When a drug laboratory is otherwise discovered and the owner of the property where the drug laboratory is located has received written notice thereof. (Prior code 7-191)

Sec. 7-9-20. Definitions.

As used in this Article, the following terms shall have the following meanings except where the context clearly indicates a different meaning:

Board means the State Board of Health in the Department of Public Health and Environment.

Closure placard means a sign posted on a property or a portion of a property, which indicates that no person may lawfully occupy or use a property except for the purpose of decontamination or demolition. The placard shall, at a minimum, include the following information:

- a. A statement that no person may enter, occupy or use the property or contaminated portion thereof except such persons specifically authorized by this Article.
- b. A statement that, due to chemical contamination from the manufacture of methamphetamine or other controlled substances, the property may be hazardous to human health.
- c. Any special prohibitions or conditions in effect.
- d. The street address of the posted site.
- e. The name and telephone number of the governing body.
- f. A statement that removal of any items from the property is prohibited, except as allowed by this Article.

Contaminated means to have been made impure, unclean or potentially hazardous because of exposure to chemicals or by-products used to make methamphetamine or other controlled substances as defined by Section 18-18-102, C.R.S.

Drug laboratory means the areas where methamphetamine or controlled substances have been manufactured, possessed, cooked, disposed of or stored and all proximate areas that are likely to be contaminated as a result of such manufacturing, processing, cooking, disposing or storing.

Governing body means the City Council of the City of Central and any designated departments of the City as determined by the City Council, including but not limited to the City of Central Police Department, the City of Central Fire Department, the City of Central Building Department or any authorized inspector appointed by the City Council or the City Manager.

Property includes but is not limited to real property and any building, structure or vehicle thereon of any private person or entity. (Prior code 7-192)

Sec. 7-9-30. Owners of contaminated property.

(a) If a property or a structure thereon has been determined to be contaminated or if a governing body or law enforcement agency issues a notice of probable contamination for the property, the owner of that property shall:

(1) Within twenty-four (24) hours of written notification from the governing body or law enforcement agency, post the property or the necessary portion thereof with a closure placard at each exterior entrance to the property;

(2) Take all other reasonable measures, including the fencing off of the property, to make the property or a portion thereof inaccessible to persons for occupancy or intrusion; and

(3) Within thirty (30) days of the property being deemed contaminated or within thirty (30) days from the issuance date of a notice of probable contamination, the property owner shall either:

a. Commence cleanup or remediation of the property within the standards established by the Board in Section 25-18.5-102, C.R.S., or

b. Commence demolition of the property as permitted by Section 25-18.5-103(1), C.R.S. If the owner elects to demolish the property he or she shall ensure that the property is fenced off or otherwise made inaccessible to persons for occupancy or intrusion.

The property owner shall obtain all necessary permits for the decontamination, remediation and/or demolition of the property, which work shall be completed no later than one hundred twenty (120) days from the date of the property being deemed contaminated or from the issuance of a notice of probable contamination. In performing such work, the property owner shall comply with all applicable state and Board laws and regulations.

(b) If only a portion of a property or structure is determined to be contaminated or has had a notice of probable contamination issued regarding it, these requirements shall apply only with respect to the portion of the property or structure deemed contaminated. Nothing in this Article shall be interpreted to require a property owner to prohibit access to portions of his or her property that are not deemed contaminated, with the exception that any property or structure used for a single-family attached or detached dwelling shall comply with Subsection (a) above.

(c) Any violation of this Article shall be punishable as provided in Subsection 1-4-20(a) of this Code. (Prior code 7-193)

Sec. 7-9-40. Occupancy of contaminated property.

(a) Any portion of a property that has been declared contaminated under this Article or state law, or has had a notice of probable contamination issued regarding it, may not be occupied until the contaminated area meets the cleanup standards set by the Board and the City has inspected and tested the property as authorized in Section 7-9-50 below.

(b) After the completion of a preliminary assessment conducted pursuant to and in compliance with Board regulations, where a property owner demonstrates to the satisfaction of the governing body that only a portion of a property is determined to be contaminated, the property owner may permit any person access to and use of those parts of the property which are determined not to be contaminated. This Subsection shall not apply to a property containing a single-family attached or detached dwelling.

(c) An owner of any personal property within a structure or vehicle contaminated as described herein shall have ten (10) days after the date of discovery of the laboratory or contamination to remove or clean his or her personal property according to Board rules. If the personal property owner fails to remove the personal property within ten (10) days, the owner of the structure or vehicle may dispose of the personal property during the cleanup process without liability to the owner of the personal property for such disposition. (Prior code 7-194)

Sec. 7-9-50. Inspection and testing.

Once a property owner has either: (1) met the cleanup standards established by the Board, as evidenced by a test performed by a certified industrial hygienist or an industrial hygienist as defined by Section 24-30-1402, C.R.S., and as evidenced by written results provided to the governing body; or (2) demolished the property, the City may inspect the property and conduct tests to ensure it meets the cleanup standards set by the Board. If the property has been demolished, the City may inspect the property and conduct tests to ensure that it no longer is contaminated. The City shall charge the property owner for the actual costs of the inspection and/or tests plus fifteen percent (15%) of the costs for the inspection and/or tests to cover administrative expenses, including attorney fees and other similar expenses. Failure to pay said costs shall constitute a violation of this Article. (Prior code 7-195)

Sec. 7-9-60. Contaminated properties deemed public nuisance.

A contaminated drug laboratory that has not met the cleanup standards set by the Board referenced in Section 7-9-50 above or has not been demolished within thirty (30) days of being deemed contaminated, or within thirty (30) days from the issuance date of a notice of probable contamination, is deemed to be a public nuisance. If the property owner has failed to clean up or demolish the contaminated structure within the thirty-day time frame, the City may proceed to have the nuisance abated from the property in accordance with Article I of this Chapter. (Prior code 7-196)

ARTICLE X

Smoking Regulations

Sec. 7-10-10. Purpose and intent.

The City Council hereby finds and determines that it is in the best interest of the people of the City to protect nonsmokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments and places of employment. The City Council further finds and determines that a balance should be struck between the health concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the City Council hereby declares that the purpose of this Article is to preserve and improve the health, comfort and environment of the people of this City by limiting exposure to tobacco smoke. These regulations cover the same subject matter as the provisions of the Colorado Clean Indoor Air Act and shall be enforced in the Municipal Court. (Prior code 7-201)

Sec. 7-10-20. Definitions.

As used herein, the following terms shall have the meaning indicated:

Auditorium means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways or lobbies adjacent thereto.

Bar means any indoor area that is operated and licensed under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

Employee means any person who:

- a. Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or
- b. Provides uncompensated work or services to a business or nonprofit entity.

Employee includes every person described in Subparagraph a. above, regardless of whether such person is referred to as an employee, contractor, independent contractor, volunteer or by any other designation or title.

Employer means any person, partnership, association, corporation or nonprofit entity that employs one (1) or more persons. *Employer* includes, without limitation, the judicial branches of state government; any county, city and county, city, town or instrumentality thereof or any other political subdivision of the State, special district, authority, commission or agency; or any other separate corporate instrumentality or unit of state or local government.

Entryway means the outside of the front or main doorway leading into a building or facility and includes an area, public or private, radiating one (1) inch from the frame of the doorway.

Environmental tobacco smoke, ETS or secondhand smoke means the complex mixture formed from the escaping smoke of a burning tobacco product, also known as side stream smoke, and smoke exhaled by the smoker.

Food service establishment means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops and short-order cafes.

Indoor area means any enclosed area or portion thereof. The opening of windows or doors or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

Outdoor area means an area with at least forty percent (40%) of the surrounding walls, columns or other building elements as permanent and unobstructed openings to the outside. Such area may be provided with a roof or floor to provide weather protection, provided that such area is not fully enclosed.

Place of employment means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

Public building means any building owned or operated by:

- a. The State, including the legislative, executive and judicial branches of state government;
- b. Any county, City and county, City, town or instrumentality thereof, or any other political subdivision of the State, a special district, an authority, a commission or an agency; or

c. Any other separate corporate instrumentality or unit of state or local government.

Public meeting means any meeting open to the public pursuant to Part 4 of Article 6 of Title 24, C.R.S.

Smoke or *smoking* means the burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco.

Smoke-free work area means an indoor area in a place of employment where smoking is prohibited under this Article.

Tobacco means cigarettes, cigars, cheroots, stogies and periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff and snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe or otherwise, or both for chewing and smoking. *Tobacco* also includes cloves and any other plant matter or product that is packaged for smoking.

Tobacco business means a sole proprietorship, corporation, partnership or other enterprise engaged primarily in the sale, manufacture or promotion of tobacco, tobacco products or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture or promotion of other products is merely incidental.

Work area means an area in a place of employment where one (1) or more employees are routinely assigned and perform services for or on behalf of their employer. (Prior code 7-202)

Sec. 7-10-30. General smoking restrictions.

Except as provided in Section 7-10-40 below, it shall be unlawful for any person to smoke in any indoor areas, including, but not limited to:

- (1) Public meeting places.
- (2) Elevators.
- (3) Government-owned or -operated means of mass transportation, including but not limited to buses, vans and trains.
- (4) Taxicabs and limousines.
- (5) Grocery stores.
- (6) Gymnasiums.
- (7) Jury waiting and deliberation rooms.
- (8) Courtrooms.

- (9) Child day care facilities.
- (10) Health care facilities including hospitals, health care clinics, doctor's offices and other health care related facilities.
- (11) Any place of employment that is not exempted. In the case of employers who own facilities otherwise exempted from this Subsection, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.
- (12) Food service establishments.
- (13) Bars.
- (14) Indoor sports arenas.
- (15) Restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-unit residential facilities.
- (16) Restrooms, lobbies, hallways and other common areas in hotels and motels, and in at least seventy-five percent (75%) of the sleeping quarters within a hotel or motel that are rented to guests.
- (17) Bowling alleys.
- (18) Billiard or pool halls.
- (19) The common areas of retirement facilities, publicly owned housing facilities and nursing homes, not including any resident's private residential quarters.
- (20) Public buildings.
- (21) Auditoria.
- (22) Theaters.
- (23) Museums.
- (24) Libraries.
- (25) Public and nonpublic schools.
- (26) Other educational and vocational institutions; and
- (27) The entryways of all buildings and facilities listed in Paragraphs (1) through (26) of this Section. (Prior code 7-203)

Sec. 7-10-40. Exceptions to smoking restrictions.

Smoking is permitted in the following places:

- (1) Private homes, private residences and private automobiles; except if any such home, residence or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation.
- (2) Limousines under private hire.
- (3) A hotel or motel room rented to one (1) or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent (25%).
- (4) Any retail tobacco business.
- (5) The outdoor area of any business, including but not limited to patios, balconies, outdoor stage areas and concert halls.
- (6) A place of employment that is not open to the public and that is under the control of an employer that employs three (3) or fewer employees. (Prior code 7-204)

Sec. 7-10-50. Optional prohibitions.

(a) The owner or manager of any place not specifically listed in Section 7-10-30 above, including a place otherwise exempted under Section 7-10-40 above, may post signs prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place, or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Article.

(b) If the owner or manager of a place not specifically listed in Section 7-10-30 above, including a place otherwise exempted under this Section, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by Subparagraph 7-10-30(11)b., the owner or manager shall post a sign or signs in the smoke-free work area as provided in Subsection (a) above. (Prior code 7-205)

Sec. 7-10-60. Enforcement and penalties.

(a) It shall be unlawful for a person who owns, manages, operates or otherwise controls the use of a premises subject to this Article to violate any provision of this Article.

(b) It shall be unlawful for any person to smoke in an area where smoking is prohibited pursuant to this Article.

(c) Violations of any provision of this Article shall be punishable in accordance with Section 1-4-20 of this Code subject to the following fine schedule:

First offense within calendar year:	Up to \$200.00
Second offense within calendar year:	Up to \$300.00
Each additional offense within calendar year:	Up to \$500.00

(Prior code 7-206)